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FARM CREDIT SYSTEM

HEARING

BEFORE THE

SUBCOMMITTEE ON
COURTS AND ADMINISTRATIVE PRACTICE

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

FARM CREDIT SYSTEM LEGISLATION

DES MOINES, IA, AUGUST 26, 1987

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FARM CREDIT SYSTEM

WEDNESDAY, AUGUST 26, 1987

U.S. SENATE,
SUBCOMMITTEE ON COURTS
AND ADMINISTRATIVE PRACTICE,
COMMITTEE ON THE JUDICIARY,
Des Moines, IA.

The subcommittee met, pursuant to notice, at 1:30 p.m., at the 4-H Building, Iowa State Fairgrounds, Des Moines, IA, Hon. Charles E. Grassley presiding.

OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S. SENATOR FROM THE STATE OF IOWA

Senator GRASSLEY. Ladies and gentlemen, I'm going to call this meeting to order. We were scheduled to meet in the 4-H Building, but because of rain and the variety show, we have been moved from the 4-H Building, so we're here this afternoon. I want to thank very much, not only the participants, but also the observers who were willing to make the accommodations for moving here.

I'm taking the liberty of starting this meeting without the official court reporter; but someone has volunteered to tape the meeting and, hopefully, the court reporter will get here soon. That's why we're late getting started.

But I don't want to wait any longer because we have to relinquish this building in time for the last show this afternoon by the 4-H people. It wouldn't be very good for any of us, politician or otherwise, to abuse the liberty that has been given to us to use this building this afternoon. So with that necessary explanation, I want to go now into further detail about the purpose of this hearing.

First of all, I must give particular thanks to all the people connected with the State Fair for making this event the successful event that I think it will be. I particularly want to take the opportunity to thank Mary Lucas, Gary Slater, and their assistants for their cooperation with making the arrangements.

This hearing is being conducted under general oversight authority of the Subcommmittee on Courts and Administrative Practice of the U.S. Senate Judiciary Committee. It is the third investigative hearing that I've conducted in Iowa regarding farm credit issues over the last 3 years.

Today's hearing will focus exclusively on the Farm Credit System. I want to give special thanks to Senator Biden, the new Democratic chairman of the Senate Judiciary Committee, and Senator Howell Heflin of Alabama, who is chairman of this subcom-

mittee—for permission to me, as the ranking minority member of this committee, to hold this hearing while the Senate is in recess.

This hearing is especially important because it is the third year the Farm Credit System has come to the U.S. Congress for assistance. It is vital that the mistakes Congress made in the last 2 years are not made again.

In 1985 and 1986, we concentrated on the structure and organization of the Farm Credit System. That emphasis didn't accomplish as much as we wanted because we failed to change the relationship between the borrower and the lender. There will be more consideration given this time on how that legislation will impact the farm borrower.

Any legislative package must be developed and evaluated on the basis of whether it directly assists the struggling farm borrower with his credit needs. For the most part, the legislation that is being considered by the Senate Agriculture Committee, as well as that reported out of the House Agriculture Committee, seems to meet that criterion.

In the capacity of an oversight hearing, I will investigate not only the intent of the Farm Credit System officials, but also the fruits of those intentions. In other words, we'll see how sincere or successful they have been in making the changes and producing the results that were intended. And we compliment any change of direction in that positive fashion which has been demonstrated or stated.

We will hear testimony today from farmers who have dealt with the system. We will hear from individuals who are in the business and helping Congress deal with the Farm Credit System.

We will also hear from farm organizations whose members have a variety of experiences with this farm lender. And, of course, we will hear from the officials of the Omaha district office of the Farm Credit System.

First, a little background on where Congress is. For those of you participating, I know you know. But for the observers, I think it's necessary that we give an update on the Farm Credit System legislation.

As most of you know, officials of the Farm Credit System have come to Congress in each of the last 3 years requesting financial assistance. In 1985 and 1986, Congress responded with several initiatives to alleviate the fiscal crunch it was facing without actually pouring money into the system.

These endeavors largely were comprised of organizational and accounting modifications. Congress did recognize that financial assistance could become necessary, but required a separate appropriation for the funding.

Created in 1916 by the Congress of the United States, the Farm Credit System has long been held in only the highest respect among farmers. Its banks provided cheap loans to family farmers, who were also owners and directors of their own lending cooperatives.

In recent months, however, the reputation of the Farm Credit System has fallen. I shouldn't say just "in recent months." I suppose that has developed over the last 3 years.

Farmers used to hold the system in high esteem. It now seems that that's not the case. On the other hand, we know that the Farm Credit System is doing a great deal to improve the relationship and the credibility of the system with the individual farmers.

My criticism of the Farm Credit System has not been a secret. I've often gone on record to challenge the management of the system for what I consider antifarmer policy.

You, my constituents, have shared with me all too many samples of callous treatment of farm borrowers, farmers who are struggling with low crop prices, devalued land and bad weather conditions.

I do, however, recognize that new management has come to the Omaha district. I am quite certain that its representatives will testify about the changes and the new attitude that has taken place at the Omaha Farm Credit Service.

I do not blame the present management for the actions of their predecessors. I do think, though, that it would not be responsible for me to find easy targets to blame at this point.

This year, system officials say that as much as $6 billion may be needed to bail it out. That is nearly twice the amount that the Iowa State Legislature appropriates to run its entire State government for 1 year.

Despite the huge amount that perhaps is needed, there seems to be consensus in Congress that an assistance package is needed for the Farm Credit System. The House Agriculture Committee has already voted out its bill, H.R. 3030.

The Senate Agriculture Committee is scheduled to vote out a bill shortly after the Senate reconvenes on September 8. In the Senate, there are two bills, one by Senator Lugar of Indiana, the ranking Republican on the committee, and another one by Senator Boren of Oklahoma. These will be the main bills for Congress to consider.

Though to me, those three bills appear to be the main ones, there are additional proposals. The system itself has its own proposal, as does the U.S. Department of Treasury. Several Members of Congress have bills which address only components of the issue.

Almost all Members of Congress have a real interest in this legislation. Let me assure you that my interests are far more than just passing interests. Therefore, I had an opportunity to initiate an ad hoc task force made up of other farm State senators who do not serve on the Senate Agriculture Committee.

Together we developed a list of remedies that we think should be included in the Farm Credit System legislation. This list was drafted into a letter and sent to the Republican and Democratic leaderships of the Senate Agriculture Committee.

We received a very favorable response. Senator Boren and Senator Lugar utilized our recommendations in their own bills and have both solicited my support for their legislation.

Our task force will continue to be active in getting proposals which benefit our constituents adopted in the Agriculture Committee and on the Senate floor. And if we need to go as far as a conference committee, we'll do that.

Well, that's what has led to this hearing. In summary, we will look at the continuing and changing credit needs of the farmers. We will investigate the responsiveness of the Farm Credit System officials and their policies with the farm borrower.

Finally, we will analyze appropriate legislative solutions to ensure that farm borrowers' needs are being met. And with that opening statement, I would now like to turn to the members of the first panel.

First, we have John and Evelyn Nichols, from Saint Anthony in Marshall County, IA. They have farmed since 1955. I would ask that you come while I introduce you and sit at the appropriate place.

They now raise corn and soybeans and they have borrowed from the Farm Credit System since 1965. In the past, John has been a member of the local Farm Bureau board. He has been a political activist for 20 years. He served in the Armed Forces during the Korean war and in Germany, and Evelyn has been very much an active member of the farming operation.

Next, we have Jim White from Pleasantville, IA. He has farmed on his own farmland since 1966, and has borrowed from the Farm Credit System since 1972.

He is a member of the AAM. He has been to Washington nine times since 1985 pushing for fair credit legislation and has been a member of many farm organizations.

He has worked the hotline for organizations and is currently involved with chapter 12 bankruptcies. He's been an Iowa champion corn grower in 1963 and 1964.

I welcome each of you. I hope that it won't seem inconsiderate if I ask that in each instance you would stay within the time frame that we give you because a very valuable part of this hearing is for us to have an exchange of specific questions that I and my colleagues have of the individual panels.

So I would ask that you start now and you would use your time and then we'll immediately go to Mr. White for his presentation. Go ahead.

PANEL OF FARMERS

STATEMENT OF MR. AND MRS. JOHN NICHOLS

Mr. NICHOLS. Thank you, Senator Grassley. It's a privilege to be here. I am here as an individual and I represent no organization. I finished high school in the spring of 1947 and immediately I went to work as a hired man on farms in Marshall County.

In the years 1951 and 1952, I served in the Army. In 1955 we started farming with a savings of $1,500 and an operating loan from the Farmers Home Administration. We paid off this loan in less than 3 years.

In 1959 I purchased 160 acres on contract. We paid off this contract with a Federal Land Bank mortgage on January 8, 1965, and we have been with the Farm Credit System since that time.

A short time after taking out a Federal Land Bank mortgage, the Production Credit Association representative came to our farm and recruited us as a client for the Production Credit Association.

His, the PCA's representative's, sales pitch was, "Come with us and you'll never have to worry about making your farm payment." Also, he said, "If land comes up for sale nearby, we will advance you the down payment."

Our relationship with the Farm Credit System went reasonably well for about 20 years. By this time our farm had increased to 859 acres. Originally it was 160.

In January of 1985, we encountered the old classic stall when it come time to renew our operating loan with the PCA. In that first interview, I was told conditions are going to be tight because of dropping land values and that I needed additional security. If I would use our 70 acres, which was paid for, as collateral, I would probably have operating capital for the year.

We set a date for loan closing. This date was delayed several times at PCA's request. Finally, in the middle of March I telephoned PCA and informed them that if I had a problem, I wanted to know about it.

Several days later, a date was set for the interview and I was asked if it was okay if a Federal Land Bank representative sat in. I okayed that. By this time we assumed we had a major problem and we engaged the services of an attorney.

Our attorney, Evelyn, and I went to this meeting expecting the worst. I was told that I was too old to farm and to put part of the land up for sale and rent out the rest. In my opinion, if we had followed this advice, we would have been bankrupt.

We resisted this advice and shortly after reached an agreement whereby we mortgaged the 70 acres to the Production Credit Association in exchange for eventual release of all other liens.

I borrowed all the cash from a life insurance policy to farm with in 1985. We also had some help from our farm co-op. And so went the years of 1985 and 1986. In 1987, with dropping land values, we had a negative net worth for the first time.

However, we were still willing to struggle through if the Federal Land Bank and the PCA would give us time to try to raise the capital to make payments. In the long run, this procedure would make us a year behind.

I visited with a Farm Credit System representative several times in February and March. On March 21, I received a letter informing me that I had been transferred to Capital Credit Corporation.

I contacted the Farm Credit System office and sought information on the March 20 letter. I was informed that I had been with the Capital Credit Corporation for quite some time. This information irritated me. I had been visiting with the Farm Credit System for several months and had not been informed that I was in the Capital Credit Corporation.

After we learned we were in the Capital Credit Corporation, we have assumed that we were marked for extinction. So after visiting with my brother, who is a banker, we decided to try to restructure our land debt.

With my brother's help and others, we submitted three proposals to the Farm Credit System and negotiation has been intense. However, it has been civil.

Several counterproposals have been considered. Currently a proposal agreed to by all concerned is in Omaha for final approval. I'm not happy with the results, but it is something we can live with. The proposal leaves us farming with a viable unit.

Since James Kirk came to Omaha, it appears that a better relationship has been developing with distressed borrowers. Restructur-

ing is probably on the increase. When it comes to the Farm Credit System, I feel an effort to restructure the system should be undertaken.

Other financial institutions, for the most part, tend to be in and out of the farm loan business. We in agriculture need the Farm Credit System or something similar to take care of the peak and valleys in loan volume.

I had not had time to give an indepth study to the various bills now being considered. However, one bill, S. 1486, as a whole may not be as favorable to borrowers as others. S. 1486 appears to leave room to dump real estate on the market.

It might possibly attract sidewalk farmers or Wall Street investors, or whatever you want to call them, to the detriment of the family farmers. S. 1665 I regard more favorable. Sections 201 to 203 appears more vavorable to family farms. Section 201 changes the focus and name of the Capital Credit Corporation to Loan Restructuring Corporation, which might be a plus.

H.R. 3030 has been passed by the Agriculture Committee and something similar will probably pass the House. This bill appears to address most of the problems of the farm credit crisis.

I feel agriculture is at a crossroads. We are in the process of watching the demise of the middle class of the farm sector. We may very well see in the near future a definite trend to a South American style of agriculture in the United States with clusters of hobby farms near larger cities.

The question before us, as I see it, will we opt to try to preserve the family farm or will we let events take us down the road to a different style of agriculture?

Thank you very much, Senator.

Senator GRASSLEY. Thank you. Mr. White, would you go ahead, Evelyn.

Ms. NICHOLS. Thank you, Senator. My husband, John, has already testified and I only want to add, our value and self-esteem is of importance. If it is taken from us through the Farm Credit System agents telling John he is too old to farm, this makes a man feel nonimportant. It makes us feel we are over the hill.

It is unexcusable. It is discrimination at its worst. But we swallowed our pride, picked ourselves up, and started negotiating again in 1987. If bad feelings of antagonism and strong-arm tactics can be halted for a better working relationship between lender and lendee, only then can the Farm Credit System be bailed out.

With strong supervision, how the money is getting spent—as of now our district at the Farm Credit System has only men on the board of directors. No woman has been asked. Even so, a woman, in most cases, is on the deed of the farm with her husband and signs the Federal Land Bank mortgage loans, but she—and also most of the time she has the stock on hand and bought too. But she has no vote at the annual meeting.

Men are on the board of directors while no woman is considered. I'm not a woman's libber, but I feel, when we own property, we also have the right to vote and be on the board of directors as well and have a say so what is going on. Thank you.

Senator GRASSLEY. Thank you, Evelyn. Now we'll go to Mr. White.

STATEMENT OF JIM WHITE

Mr. WHITE. Thank you, Senator. Is that working? Thank you, Senator, for inviting me to testify here today. I testified in Washington, DC, a couple times but it's been in oil testimony, and I'll just cover a few items in this testimony.

I assume the whole testimony will be in the record.

Senator GRASSLEY. Yes. Let me make clear, as an administrative decision right now, that for those of you who have longer statements than the amount of time allotted to you, unless you state otherwise, your entire statement, assuming you submit it to us, will be printed in whole in the record in addition to what you say here.

That will be the case not only for you, but for everybody. You won't have to ask for permission to do that.

Mr. WHITE. The basic history. Up to the time of involvement with the Farm Credit Systems, I've been on the farm since birth. My father was a farmer and he worked as a hired hand in the early forties. Grandparents were—both came from Tennessee in their early life to settle in the Iowa area.

My grandfather lost two farms in the thirties but owned a farm when he passed away in the sixties. My father never would buy a farm because he seen what his father went through in the thirties. My father rented farms all his life from 1945 until he died in 1981 and he only had two landlords on the farms that he lived on.

In 1966 my wife and I purchased a farm in the Pleasantville area, which we presently live on. My wife has a farm background also and has a part interest in the farm. It's been in the family for over a hundred years, but it's mostly timberland is all that's left after the Red Rock Lake was built

My wife worked at my side all of the time till our sons were old enough to run machinery. We were dairymen from 1958 to 1972. We had 5 days off in 15 years for a 5-day vacation. We got our first Federal land bank loan in 1972 and paid off the land loan we had with FHA.

In 1975 my two oldest boys said that they wanted to come into the operation and the oldest was to graduate in 1976 so we went to Federal land bank and want to put up a hog facility. We put up the hog facilities but—$60,000 loan from the Federal land bank.

The other boy graduated in 1977 and decided they wanted an operation of their own so that's when we got involved with PCA. The loan officer was about the same age as my oldest son. He was put in charge of the loan in 1978.

And we have been doing business with the bank in Colfax for 18 years prior. I guess there's two sides to every conflict in life or matters as such. I have a problem dealing with people who seems to want to say whatever fits the situation. I have dealt with the Farm Credit System in the most honest and sincere way that I know how. I guess I'm from the old school. A man's word is binding and his handshake is his word.

I'm 53 years old, veteran of 2 years active duty, 4 years Reserves. I was in the Finance Corp. in Fort Bliss, TX. When I took my Federal land Bank loan out, it was 7 percent variable interest and it grew to 14. When we took the PCA loan out, it was 7—a little over

7 and it went to 18 plus. In 1979, all at once PCA did not want any sow or beef cow herd in Marion County. They succeeded in putting most of the borrowers out of the herd business and started to push contract feeding.

In 1980 I was forced to sell all the hog operations and rent the farm to my boys, understanding that I would receive back my land payments, insurance, and taxes from the boys, the deal they had forced me into March 1980 in order to renew the notes.

Come fall of 1980, after all proceeds from the crops were given to PCA, no, they were not going to renew either loan. Finally I received half of the tractor payment and that was all. I paid tax and insurance from the feed salesman's job I had taken on the side.

We tried to settle things all fall and finally I went into the hospital for 10 days and thought I was having heart trouble. And finally I found out, after $8,000 later and two hospital stays, it was stress and nerves.

Maybe the best $8,000 spent because I learned how to live with stress. The first day after I got home from the hospital, PCA called and wanted to come out and visit. I said OK, a short visit. They said they were coming out and lining up machinery in 3 weeks and sell at auction and take bids on cash rent for the farm. They did not have a mortgage on the farm at the time. We argued for 3 months and finally on May 6, past time to be in the field, they said they would rent to the boys like I did in 1980 and they renewed both loans and I would have, in fall of 1981, approximately $77,000 coming.

The same thing happened in the fall of 1981. So then I really got upset. I took PCA into Federal court with chapter 11. I finally got a hold of my records and I found out that they were claiming that they were treating both loans as one and they were after me to shut us out of farming. PCA loan officer said it might be immoral but not illegal. We got our 5-year plan approved in court early in 1983, with a lot of resistance from PCA. They tried to take me to court for contempt because I had paid half of my youngest son's tuition for college at Iowa. Judge Stageman refused to hear it.

I threatened to sue for fraud but they said, "Don't file until we get a chance to negotiate." In the meantime, we had the drought of 1983 and the PCA petitioned according to the stipulation I was forced to sign in order to get the plan approved of the $36,000 payment and they would sign the plan, and the rest of the money to be paid according to the dates and payments of the plan.

FHA refused to give us a disaster loan because we were in 11 and having all the trouble with the PCA contrary to their guidelines. We had a partial drought in 1983. PCA, with the help of Federal Land Bank of Ottumwa, got us dismissed from chapter 11 March 24, 1984. Federal land bank sent an acceleration notice and canceled stock on April 2, 1984.

PCA then was settled with the PCA and on May 4 I broke my back with a three-wheeler and was in the hospital with a special brace. They said if it had happened 6 months earlier, I would have been in a full cast for 6 months.

Soon after I got out of the hospital, PCA and I settled. When we went to settle on June 14, I was to give them the rest of the corn that was in the bin irregardless, so I gave them the corn and the

check went directly to them, beef cow herd also, and most of the machinery, and I had to sign off with a 2-percent lawsuit.

Federal land bank did not at any time ever offer first to talk over problems, solutions with me. They proceeded to get their summary judgment, set up a sheriff's sale on November 13, 1984. I had no other choice but to file another chapter 11, this time against Federal land bank to stop the sheriff's sale. We tried to work out, but 2 days before the sale was when they changed their mind and they wanted it all.

We got our second plan approved by the court but I had to sign a stipulation similar to the one I signed with PCA. I was required to have to double normal payments till current, with the first payment due January 15, 1985.

The plan was approved January 7, 1985. I was given the UCC-1 for 7 days for payment of $28,000. We gave them the $28,000 January 15 so we were to get a receipt how applied and release the UCC-1. I never received a receipt. Come 1986, when I went to seal some corn, I discovered it still had the UCC-1. Took the UCC-1 release to have them sign it and they said they wanted the checks made out to them. We hassled with them past time to make the second payment under the plan and they finally signed off the UCC-1.

Then I refused to give another cent until I received a receipt of the 1985 payment. They petitioned the court and got the order releasing the land from 11 due to the stipulation, finally said if I would give them a finanical statement on April 10, that they would negotiate. I gave them one and on the same day they filed for the sheriff's sale date. I finally got a handwritten accounting in April, and was not complete or signed by anyone.

I do not know what is in my Federal land bank file, but probably similar to PCA's. Federal land bank and PCA have been trying to put me out of farming since 1979. I stand up for what is right for everybody, not just myself. Federal land bank went ahead with the sheriff's sale on June 27, 1986, on the home place. They did not request mediation, which should have been done before a sheriff's sale.

This question is now in front of the Supreme Court to decide. Mediation law went in effect May 29, 1986. Similar cases to ours they stopped and had mediation. We were willing and tried to negotiate. Somebody in the Newton office jumped the gun, so to speak. I finally went to the Supreme Court and got a restraining order from the sheriff from issuing the sheriff's deed on the home place until decided in the Supreme Court. Under the laws of Iowa, I have 1 more year to redeem the 40-acre homestead regardless of the court's decision. Federal land bank has even contested this law in another case in the State.

I was considered a good operator by Federal land bank and PCA until 1979, by the community here in Pleasantville since 1966, and may boys also have. I have one son still farming and he's 29 and single. The youngest one is a photographer with the Iowa City paper. He is trying to finish college without Government help or his parents'. All my boys were chapter FFA farmers and I was nominated for Jaycee Farmer of the Year in Polk County in 1963. I

have lived through a lot of stress and changes in farming. I have done other things in my spare time.

I don't think I've been a bad manager. I've kept up with the latest developments and have been a pioneer on a lot of ideas. I was one of the first to try minimum till, one of the first to try no-till. I have been doing no-till since 1962 on all of our crops, have our own sprayer system and put on all our own chemicals except the spring that I broke my back.

My wife works at the clerk of court in Marion County for the past 6 years. In 1976 PCA told me I could retire when I was 50. Look where I am now. I'm 53. I have worked on the Hotline in Des Moines the last two winters. The Farm Credit System's wrote off some loans up to $1 million plus just to keep some of the super farmers which they say are in farming and some of us greybeards, which is father-and-son operations, they have tried to make us pay for it in full.

I have testified in front of the GAO Committee on the general practices of the Farm Credit System, in front of the House Ag Committee, and I have met with the FCA nine times, hopefully to help with some of the solutions but hopefully to help with some of the solutions but hopefully to take a good hard look without any special interest groups with pockets full of money didn't get their way or things for the good of all the people in the Midwest go by the waysides. These trips were out of our own individual pockets, not sponsored by some corporation or otherwise.

We don't have 80,000 to 150,000 jobs at stake. We do have our future and our family's future at stake, but to the interest of all working people who have made this country what it is, or 5 years ago at least.

So many of us have gotten—so many things have gotten out of the people's hands in the last 5 or 6 years, it really concerns me where we're headed. We seem to want to help other people from other countries before we take care of our own. Our ancestors came to this country to be free in the land of opportunity. We in the Midwest are seeing this go by the wayside. There is an old saying that you can lead a horse to water but you can't make him drink.

And some of the things, specific things on farm credit legislation, that the FCA should have more authority to make abiding by the—abide by the 1971 act on all phases. Review board set up to meet with borrowers before any action taken on a loan. Who is going to decide which is cheaper, to foreclose or restructure, and by whose figures?

House bill 3030 is fairly good as written, but some amendments are wide open for possible problems, like the Steinholm amendment. What if, when the assets and liabilities are given back ot the local associations, the liabilities are greater and not enough insurance to cover them? The only problem I can see, that further implications of project 1995, even though they are pushing that this is local control, looks like here, we can't solve it. You can try it now. Either sink or swim.

Senator GRASSLEY. Mr. White, could I interrupt you?

Mr. WHITE. Yes.

Senator GRASSLEY. I think some of the things you are going over now are suggestions on legislation.

Mr. WHITE. Right.

Senator GRASSLEY. And I have some questions on that, and since that will be submitted as part of your testimony, I would just like to ask you to stop now.

Mr. WHITE. OK.

Senator GRASSLEY. But I want to pay a special thanks to you for your frequent trips to Washington. I don't think that you probably sense what an important part of the legislative process that constituents like you are. We appreciate those people who can come, and not only give personal examples of views on legislation, but also some examples that stem from experience. We appreciate your taking the time to come to Washington so many times. It's a very important aspect of the legislative process and very much a contribution to the legislation we eventually pass. I thank both of you for attending here. But I especially want to say that those of you who take time out, as you have, for so many trips to Washington, I think deserve some special consideration.

I would also like to highlight, if I could, before I go to questions. As I read both of your statements, it appears that the monetary problems are less bothersome than the things that appear relatively small but show insensitivity. Like Mr. Nichols, in your case, you were too old to continue farming, or in your case, Mr. White, you were delivered a notice the day after you got out of the hospital. Maybe the or in your case, problem is just insensitivity.

Would that be fair for me to say?

Mr. WHITE. OK. On my case, it seems as though I was misled on what was happening and I wasn't informed of it until it was 2 years past, it had already happened, that their mind was made up because I had co-signed for my boys and they had a separate operation.

I think it's not mainly—I have great faith in the Farm Credit System, but the times I've been in Washington, DC, I run into so many problems. The 1971 Farm Credit Act was a good act, but it had too many ifs or shalls or can when it should have made—been mandatory for all Farm Credit FICB's, for example, I mean all banks.

But it was set there for just a guideline. They could use it if they wanted. They didn't have to, it wasn't required. And this is what put the Farm Credit System in trouble, plus a lack of profit in agriculture.

I have a great respect for the Farm Credit System and most of what happened to me hasn't—it's happened since 1980—late 1986 back. I haven't had too much dealings.

I've tried to negotiate with them now and I think we can work something out.

Senator GRASSLEY. That will lead to the next question, but I want to hear if I understand you, Mr. Nichols. Did I?

Mr. NICHOLS. Yes.

Senator GRASSLEY. If each of you has had experience with the Farm Credit System in mediation, I want to know what that experience has been.

Mr. NICHOLS. I've been through mediation. Farm Credit System asked for it. I feel it was used as kind of a club to put pressure on me because we was about two-thirds through our negotiations

anyway and I figured that they used it because the State of Iowa, I've got to go through negotiation in order to file foreclosure. So I think they used it as pressure for me.

However, I think it's a service that needs saving. There's a certain group of people that are not talking with their creditors and this is the chance to get them altogether and get them visiting.

Senator GRASSLEY. Did you feel prepared for the step of the mediation?

Mr. NICHOLS. I was prepared when we went to it.

Senator GRASSLEY. Mr. White, your answer to both questions, please.

Mr. WHITE. I have never had the opportunity. They never have requested mediation.

Senator GRASSLEY. You have not been in mediation?

Mr. WHITE. But I have been through the—I have went through the FINPACK, visited with a lot of farmers, have helped a lot of farmers and I went through the FINPACK just for my own information, but I have never had the opportunity for mediation.

Senator GRASSLEY. Why don't you just give me your general view, just the experience you have had with other farmers.

Mr. WHITE. Some mediations have been good. It's depending, I think, on the—if there's been personal conflicts between the loan officer and the farmer beforehand, it carries on into mediation if they're the one that's in charge of the mediation.

My recommendations, it should be somebody else from the Farm Credit System set in on the mediation rather than the current loan officer that had anything to do with the loan, say, 5 years prior.

It would work out a lot better, I think, for everybody. There's too much of this personal stuff carried into the——

Senator GRASSLEY. Have most of the people that have been involved at that mediation step been prepared to carry their end of the negotiation at that step?

Mr. WHITE. I think the first year that it went in effect, I think there was considerable numbers of people that turned down mediation. If I remember the correct figures, I think it was 2,800 farmers turned down mediation for one reason or another.

But I think more farmers are going ahead and accepting mediation when they have to apply. They have enough replies and I think 50/50—probably 50 percent of them are prepared.

Senator GRASSLEY. I would like to ask each of you a very general question. Depending on your answer, it might give Congress a view of how you might view the process of trying to get loans. It's in regard to the secondary market issue.

Would you prefer to conduct your credit business with your local commercial banker instead of the Farm Credit System if similar terms were available?

Mr. NICHOLS. I would be willing to use that service if it came that way. You're talking about a 90-percent guarantee?

Senator GRASSLEY. No, I'm just talking very generally; if you needed a loan, would you generally prefer to work with the Farm Credit System people or your commercial banker?

Mr. NICHOLS. Well, right at the moment it would be the commercial banker, but I believe the Farm Credit System should be there in place.

Senator GRASSLEY. Well, I want you to consider the long term. Would you say generally that statement would have been true for the last 10 years?

Mr. NICHOLS. No.

Senator GRASSLEY. It wouldn't have been?

Mr. NICHOLS. No.

Senator GRASSLEY. OK. How about you, Mr. White?

Mr. WHITE. I think short term I'd rather do it through the commercial banker, the banker I've had 18 years prior to the PCA. In the long term, with a fixed interest rate, I would prefer to be with the Federal land bank.

Senator GRASSLEY. Mr. White, what should be the goal of a lease arrangement? Would it be to provide a transition time for eventual repurchase of the land by the original owner?

What should be the maximum term of the lease agreement?

Mr. WHITE. The maximum terms, I would say—the minimum terms should be 5 years, maximum could be 5 years or 10 years. I would say, rather than a cash rent basis, it should be on a two-thirds/third basis.

Senator GRASSLEY. And you think that this would serve the purpose of providing transition time for the eventual repurchase of land by the original owner?

Mr. WHITE. I believe it would.

Senator GRASSLEY. OK.

Mr. WHITE. At a fixed interest rate.

Senator GRASSLEY. Do you think that we ought to have a lease arrangement to allow time for the farmer to relocate, find other land to rent or make other living arrangements? Under those circumstances, what would be the maximum term of a lease?

Mr. WHITE. I'd say 3 years.

Senator GRASSLEY. Three years. And let's suppose there were no strings at all attached. Might this be a second best option, next to buying, without encumbering the farmer. The benefit is to keep the farmer on the land and to keep the land off the market. Is there another purpose that would be served by that?

Mr. WHITE. Well, I would say that if there's a way that the farmer could stay on the land and repurchase at a fixed interest rate at a fixed price, I'd say 3 years—you ought to have a 3-year exclusive right to buy that back at a certain price.

Senator GRASSLEY. Any comments from you, Mr. Nichols, on any one of these three reasons for lease arrangements and whether or not we ought to have the goal of a lease arrangement for farmers that fall into this category?

Mr. NICHOLS. Well, I think there should be a first right of refusal on the lease. And there's another plus we haven't spoken about, the small farm towns. It will help them because you get another family remaining in the neighborhood.

Part of that money is going to be spent locally.

Senator GRASSLEY. Now to a very key question coming to Congress at this particular time. I would like to ask each of you whether you think Congress should bail out the Farm Credit System.

Mr. NICHOLS. I don't think they have any alternative. The crash will be terrific if they don't do something. My personal opinion is, they should be restructured.

Senator GRASSLEY. And what I asked would not preclude that, necessarily.

Mr. NICHOLS. No.

Senator GRASSLEY. Mr. White?

Mr. WHITE. I believe they should be—Congress should have, but there should be a little bit more strings attached to it so it won't get like it did in—since 1971. It's been kind of a management-run Farm Credit System since 1971.

I'd get back in the borrower's hands with a little more strings attached from the U.S. Government, Congress.

Senator GRASSLEY. I think those are the last questions I'm going to ask. I don't think I'll have any questions to submit to you folks in writing. If I do, we would, under normal procedure, send you the questions and ask you to respond in writing.

Sometimes, because members can't come, you might get questions from other members. I don't anticipate that in this case.

Thank you all very much. You've been very helpful in defining the problems that we have to deal with. Thank you very much.

Mr. NICHOLS. Thank you.

Ms. NICHOLS. Thank you.

Mr. WHITE. Thank you.

Senator GRASSLEY. I now will call the next panel and ask them to come at the time that I read their name. Liz Binger is the Assistant Director of the Farmer/Creditor Mediation Service and has been there since June 1986 when it was established. Prior to her present position, she worked as a mediator in Cedar Rapids.

We have Tam Ormiston. He is director of the Farm Division of the Iowa Attorney General's office. Next is Dr. Mike Duffy, State coordinator for Assist and also extension economist and associate professor at Iowa State. He happened to be born and raised in Nebraska, earned a doctorate from Penn State University and, prior to working for the Iowa Extension Service, worked for the U.S. Department of Agriculture.

We have Darwin Kohl, a private mediation consultant with the Tom Reilly law firm in Cedar Rapids. He farmed for 27 years in the neighborhood of Cedar Rapids, has consulted for 2 years, has worked on over 300 mediations and compromises with lenders, including the Farm Credit System, and has 90 active clients at this point in his professional involvement.

Pete Brent, West Des Moines, is Hotline coordinator for Prairiefire and the Iowa Farm Unity Coalition. He has been active in the organization since 1982. He farmed for 23 years in Guthrie County until 1982 and he has been, in his own words, a radical. Those are your words, Pete; not mine.

To demonstrate the plight of the farmer in economic depression, he drove his tractor and manure spreader to Washington, DC. That may have been the first time I had a chance to meet Pete Brent. I don't think it was, but I at least remember that early meeting with him.

And now we will proceed in the same way we did before—Liz, Tom, Dr. Duffy, Darwin, and Pete.

ADVOCACY AND INTERVENTION PANEL

STATEMENT OF LIZ BINGER, ASSISTANT DIRECTOR, FARMER/ CREDITOR MEDIATION SERVICE

Ms. BINGER. Senator Grassley, I appreciate the opportunity to present Michael Thompson's testimony to you regarding the problems encountered by American farmers and creditors and, in particular, the Farm Credit System.

His testimony is as follows:

As a professional mediator and negotiator, I welcomed the challenge of developing a mediation service for farmers and creditors, one which provides farmers and creditors with a neutral third-party intervenor who enhances the negotiation process such that win/win outcomes can be developed.

While I am not an expert in the fields of farming or credit, my experience as a mediator and administrator over the last two years has been unique. I hope the following perceptions are valuable in assisting the Congress in its endeavor to establish an accountable approach to solve the problems encountered by the Farm Credit System.

In viewing the problems which exist in the agricultural sector, it is important to note that many believe the crisis has ended. While I concede that the crisis has lessened, the chronic problems facing American agriculture remain: One, overproduction; two, reliance upon Government payments; three, world competition and protectionism; four, high capital costs; five, inefficient management by creditors and farmers; six, technological changes which alter the business process; and seven, inflationary debt loads for 25 percent of U.S. farmers.

Thus, while 1986 was a better year for farmers and creditiors, problems will continue for at least 25 percent of the farm families and for a comparable number of creditors, including the Farm Credit system. These numbers could grow at an alarming rate if, for example, the government support programs are reduced or red meat prices would drop.

This does not consider what might happen if a drought or other natural catastrophe occurs and also does not consider what could happen if the Farm Credit System problems are not resolved. Liquidating the Farm Credit System would create a grave problem for a great many farmers, in my estimation.

In this light, I would propose that the maintenance of the Farm Credit System is strategic to building a means of resolving the long-term problems. However, it should be clear that the preservation of this system should include some measures to preserve family farms and/or promote rural economic development for those who cannot maintain a viable farming operation.

In building accountability, I would recommend that Congress intervene in a manner which does not establish complicated procedures but one which promotes mutual understanding. This is a difficult proposition, given the adversarial environment which has developed between many farmers and creditors.

Strategically Congress must protect the majority of the citizens (the public, farmers, and creditors), while building a method with the flexibility to determine the best interests of all.

I am not in favor of an elaborate set of rules to bind the Farm Credit System into saving every family farm. While I appreciate the desire to do this, I do not see how the Farm Credit System can offer debt restructuring to every client. The cost to the Government would be too high.

Moreover, I am not in favor of a complex set of procedures which includes a formula to be determined who can be saved. I am against this approach because of the difficulties I have encountered when trying to help farmers negotiate with FmHA or FDIC.

Because of the complex rules that abound for these organizations, it is virtually impossible to negotiate settlements with long-term positive outcomes. Instead, I urge the use of a process to build accountability. This process is detailed in the recommendations which follow.

Before moving to these recommendations, I am compelled to speak regarding my interaction with the personnel from Farm Credit Services, including people from the Federal Land Bank, Production Credit Association of the Midlands, and the Capital Corporation.

Initially many of these people did not trust me, my staff or the mediation process. Despite this initial reaction, I have found that the preponderance of their personnel

can be worked with. Furthermore, I am certain they are working to find an approach which will be useful for all.

Our program has not been without problems, but the administrative staff from the Omaha region has demonstrated a willingness to work with the mediation process and our program. Since this trust has been built, the Omaha region has, one, developed a safety valve mechanism for cases which has complaints after the mediation session; two, established a feedback mechanism by which the mediation staff could promote positive changes; three, assisted other States in developing mandatory mediation programs, such as Wyoming, Illinois, and Nebraska; four, contacted other Farm Credit System regions to assist in reducing hostility between individual borrowers and farm credit officers. These were cases that came to our attention through farm advocates or mediators. And finally, they have established an ongoing system to handle complaints.

These activities indicate that the personnel from Farm Credit Services have changed and it appears that they are trying to be responsive to the problems which exist with their customers.

Despite this perception, I recognize that others have not had the same relationship with the Farm Credit System. I believe that our experience suggests that the problems are a two-way street and this demands that farmers, creditors, mediators, advocates and others must work together to solve these problems.

While I believe our experience can be replicatred throughout the country, it is strategic that Congress consider the most expeditious approach in order to maintain the integrity of the Farm Credit System.

In developing this approach, I believe it is critical that accountability measures be established to ensure the type of interaction which has begun in Iowa. That is a means by which Farm Credit personnel and farm borrowers can negotiate resolutions to protect the majority of farmers, Farm Credit stock and bondholders, the general public and the United States government.

While I cannot speak to the needs of the Farm Credit System, I would recommend the following approach as one which would promote accountability: One, establish state mediation programs which mandate neutral third-party interventions when negotiations have reached impasse. Insure that farmers and creditors understand that mediation, whether voluntary or mandatory, does not guarantee mandatory debt restructuring.

Two, allow for the development of state mediation programs which meet the particular needs of each state. Despite my belief that the Iowa model has merit, each state must create a program to fit its needs. Earmark funds for State Mediation programs on a matching basis.

Three, establish mediation services for all lenders, not only Farm Credit System. Insure participation by FmHA, SBA, FDIC, federally chartered banks, insurance companies, implement dealers, state chartered banks and private individuals.

Four, develop a farmer/creditor mediation clearinghouse to provide technical assistance, training, and mediation services for participating States, establish a training component for training mediators, plus a similar component to teach negotiation skills to farmers and creditors, in particular for personnel from FmHA, FDIC and SBA who are procedural lenders encumbered by prolific regulations that minimize the positive effects of negotiation and mediation. Earmark specific funds to develop this clearinghouse.

Five, establish a hearing officer program for Farm Credit, FmHA, SBA and FDIC grievances where a netural third party hears all adverse actions. Insure that all grievances go to mediation prior to the use of a hearing officer.

Six, if mandatory mediation is established prior to foreclosure, create a similar requirement for mediation prior to the use of bankruptcy by farm borrowers.

Seven, establish that all state programs consider two other program components, financial counseling and legal assistance on an as-needed basis. These components may be provided by other organizations, but they are essential to the creation of a mediation program that truly assists farmers and creditors. Offering these three components in a cooperative fashion can also minimize the economic assistance needed.

Eight, provide for adequate funding of the Farm Credit System to allow for but not mandate debt restructuring. If every farmer is allowed to restructure debt, the funding required to protect the Farm Credit System would be astronomical.

The Iowa experience indicates that some farmers are profitable but they are willing to intentionally become delinquent in an attempt to restructure the debt owed. Without judging the merits of this approach, it would certainly be costly for the Farm Credit System and the U.S. government.

Nine, establish or promote a rural economic development project that helps those who leave farming make the crucial adjustment.

Ten, promulgate that mediation services be provided on a fee generation basis. Farmers and creditors pay equally on an hourly basis, except in those cases where a client meets the criteria for a fee waiver.

The preceding recommendations would help establish a restructured Farm Credit System. This system would pass along assistance to many farmers but it would not save every family farm. I hope it is clear that the problems the Farm Credit System is encountering are of a long-term perspective.

It is a crisis today, but based upon the chronic problems that American agriculture and credit system have been facing and will continue to face.

Senator GRASSLEY. Tam, before you testify, I want to publicly acknowledge your cooperation with my office on the development of Chapter 12 legislation that we got passed.

Thank you very much. I think it's legislation that's doing some good although it's always constantly under review. But thank you very much for your help on that legislation.

STATEMENT OF TAM ORMISTON, IOWA ATTORNEY GENERAL'S OFFICE FARM DIVISION

Mr. ORMISTON. Thank you very much, Senator. I very much appreciate being able to work with your staff and with you on these very serious problems that we face. When I took over the farm division for the attorney general's office in 1983, I became directly involved with what's becoming a chronic condition in American agriculture, that is, problems for farmers and lenders alike in facing the overall agricultural crisis.

In the course of that experience, I had spent a lot of time dealing with the Farm Credit System. That includes helping draft the borrower's rights section of the 1985 Farm Credit Act, which I think really started addressing some of the problems.

What we had experienced early on with Farm Credit was that there was a certain kind of a bunker mentality. People were in trouble. The people who were working in the Farm Credit System itself were frustrated and had a sense of loss as well. That resulted in an intransigence that hurt both farmers and the Farm Credit System. It led to bad judgments and erroneous business decisions.

What I think we've seen in the course of the past year is very germane to Congress as it approaches this new legislation dealing with Farm Credit and FmHA.

The importance of this, I would argue, is that there is an opportunity to take advantage of what we've learned here in Iowa. Because Iowa was one of the first States to have a problem that was so serious, we've addressed the farm crisis in a way that other States are just coming to.

Mediation is one of the elements of our effort in this State. At the time that we sought to pass the mediation bill, we didn't know whether it would work. It was clearly something that was quite possibly pie in the sky.

How do you have a mandatory program to get people to sit down and arrive at a mutually beneficial solution in light of the context that has farmer and lender on opposite sides. There is a feeling that they've been cheated by one another, a feeling that they've been betrayed. This is a very real and substantial element to the tension that exists in our farm communities.

When we looked at mediation, we saw one major thing: that lawsuits were not working. Lawsuits were expensive, time consuming, and had very poor results. Judges were being asked to make decisions that weren't good for the lender or the borrower.

So we made the effort to pass a mandatory mediation program. Why was it mandatory? I think it's a very simple reason. Because our farmers and our lenders had doubts about that program, they were uncertain about it. Many farmers saw it was a lenders' program, many lenders saw it as a farmers' program.

What we found out is, in the course of passing our program and implementing it for this past year, that we can see success. We can see successes that are mutually agreeable. The whole point of mediation is to find a position that is acceptable by both parties.

At the time that we looked at mediation, the Farm Credit System came over and was very involved in trying to defeat that legislation. As soon as it passed, though, we saw quite a change. It occurred with the change in administration in Omaha.

New people came in and had a different view on how this problem should be approached. In the course of the past year, we've seen not a perfect situation, but we have seen a lot of cooperation.

One of the efforts in acting as farm crisis coordinator for the mediation and other similar programs is that we want to fine-tune it. We want to make sure that it's serving the farmer, the lender and the agricultural community at large. And in the effort to improve our program, we've sought the input from those parties.

I think the result in Iowa has not only been good legislation and good regulations and rules to implement that legislation, but a continuing learning process to find out what mediation can do for us.

It has relieved, I think, in many respects, the tension that we faced. I believe the position of Farm Credit in seeking to adapt to a situation, recognize the reality of the money being lost, not being a farmer's problem or a lender's problem but a mutually shared problem.

Mediation has provided the forum, for a new realism and for the past year, Farm Credit and other lenders as well have made this one of the principal tools in helping resolve problems.

As we approach this congressional legislation, I would say that it's going to be very important that we consider mediation as we figure out what needs to be done in Washington.

Mandatory mediation is admittedly a big step, but I think we aren't out of the woods by any stretch of the imagination. We have thousands of farmers that are still continuing to feel the effects this terrible crisis that we've been in, and we're seeing lenders as well experiencing that.

Iowa now has a track record. Other States have come to us seeking solutions on how to use mediation and in conjunction with some of the other bills that we've passed and succeeded with. I think Farm Credit has used this to good advantage. I know that they have sought to have other states implement mediation programs.

As we look at the mediation, I urge that we look to H.R. 3030. That does have a mediation provision, but I feel it falls far short of what's really necessary. Iowa and the office of the attorney general

stand ready to work with the Members of Congress in developing a program that can work.

Simply having a mediation program in place without it being one that has a good opportunity to succeed I think damages the already existing programs like ours in Iowa. At the same time, it could bring mediation into disrepute if we don't do it right.

In summary, in Iowa we have seen some success. The key throughout the agricultural situation is stability; stability for our farmers, stability for our lenders, stability for our small towns and our agricultural community. In Iowa I know we stand ready to assist Congress in that endeavor.

Thank you.

Senator GRASSLEY. Dr. Duffy.

STATEMENT OF DR. MIKE DUFFY, STATE COORDINATOR FOR ASSIST

Dr. DUFFY. Good afternoon. I appreciate the opportunity to be here with you. What I will try to do is pick out the points of my written testimony that I would like to make.

I feel that it is important to know where we are today. I would like to start my discussion first by sharing my perception of the current state of agriculture in Iowa. The farm income picture has improved dramatically.

The 1986 average return to management for the farms in the Iowa Farm Business Association was positive for the first time since 1978, and it looks like 1987 will be even better.

Percentage of farmers classified as financially strong jumped 16 percent from January 1, 1986, to January 1, 1987, as measured by the Iowa State Farm Finance Survey.

Currently there are fully one-half of Iowa's farms classified as financially strong. We must be extremely careful when interpreting these statistics. Tremendous rise in net farm income can be attributed to several factors whose continuation can be questioned. Government program payments, favorable livestock returns and good yields will not last forever.

Similarly, even though the finance survey found 50 percent of Iowa farms as financially strong, 11 percent were classified as under severe financial stress and very unlikely to continue, and 15 percent of the farms were classified as financially weak.

In Iowa, we have 107,000 farms. These two categories would represent over 25,000 farms. The point of this is that we can use the numbers to make whatever case we want to, kind of the old notion that figures don't lie but liers can figure.

As a friend of mine has said, we can be paralyzed pessimists, we can be foolish optimists, or we can be positive realists. It is in the vein of a positive realist that I would like to discuss the relationships between Iowa State and the Iowa Farmer/Creditor Mediation Service, my perception of the mediation process in general, and a few closing thoughts with respect to the Farm Credit System.

The Iowa State FarmAid Program, which is under the Cooperative Extension Service, relies very heavily on the computer program FINPACK. This is a computer program that allows analysis of several alternative farm plans at one time.

During 1986 and 1987, we worked with approximately 3,500 farm families through this program and about one-fourth of them were involved in the mediation process. We have done surveys of the FarmAid participants trying to ascertain what changes they have made, as well as their perception of the program and so on.

It's interesting to note that almost 40 percent of the survey respondents indicated that they had been referred to our program by a lender and that over 90 percent indicated that they would return to the program again, if needed.

We have worked very closely with the Iowa Farm/Creditor Mediation Service. The Extension Service has an office in every county in Iowa and there has been coordination between the mediation district directors and our farm management specialists. We have found no one lending institution to be easier or more difficult to work with than our FarmAid Program. It is more of a question of individuals and personalities. One of the major problems faced by mediation and the FarmAid Program is a lack of adequate preparation.

Preparation is a complex problem that deals in two general areas. Farmers, farm families and creditors must be mentally prepared to negotiate. Farmers have to realize that this is a business decision and creditors must realize that a lifetime of work and a whole way of life is often at stake. Mediation cannot proceed until all parties are willing to objectively deal with the problems at hand.

The second stage of preparation is the proposal development and presentation. This is a multifaceted stage and it involves far more than simple debt forgiveness. This, in my opinion, is the essence of mediation.

Through my personal experience working with farm families in the Cedar Rapids area and now the State level, I have come to realize that we essentially have two groups in the mediation process. Unfortunately, some families have reached a position where liquidation and starting anew may be the only viable option.

Other farm families must make substantial changes to help insure the continued viability of their farming operation. This is the group that mediation will be the most helpful for. It is not possible to have a cookbook prescription of what changes must be made.

Each individual farm family has a unique set of goals, resources, and problems. Cutting interest to zero may help—would not help some families, but only a one or two point reduction could mean difference between profit and loss for others.

Major changes or concessions must be made at times. The Iowa State Farm Aid program helps farmers evaluate these changes, mediation helps farmers and creditors reach mutually acceptable changes. Successful mediation must take realistic expectation, objective, analysis, and adequate preparation.

As I have indicated, we have not found any particular lending institution to be a problem. However, we must all be aware that the nature and structure of some lending institutions do not permit the flexibility necessary for mediation.

It is very difficult for a procedural lender such as Farmers Home to work within the mediation framework. In conclusion, I would

like to emphasize that there are still some very serious problems facing agriculture, particularly those farmers in financial difficulty.

Our experience has shown that the individuals rather than a particular lending institution aid or impede the mediation process. I am in favor of mediation only so long as it is true mediation and not slanted toward one side or another, and to be successful, there must be adequate resources available to insure proper preparation.

Thank you.

Senator GRASSLEY. Thank you, Dr. Duffy. Now Mr. Kohl.

STATEMENT OF DARWIN KOHL, PRIVATE MEDIATION CONSULTANT

Mr. KOHL. Again I would like to thank you, Senator Grassley, for asking me to be here today at this Senate hearing. I have been doing debt restructuring work with the farmers for the last 3 years. We have been negotiating with the Farm Credit System, banks, and, in some cases, the FDIC.

The type of restructuring that is being done through our office is for the farmer to be able to lend up with livestock, machinery and land, whatever equity or type of farming that they are doing so they may be able to continue their farming operations.

It is very hard for a lot of farmers to give up any portion of their land, livestock and equipment. Many farmers that are in the credit system have sold farms to their sons and they have guaranteed loans back to the credit system or to the banks for their sons to continue the operation.

These guarantees were taken out in the early 1970's when the Farm Credit System was on a roll and the land values were skyrocketing and the thought that there would be no problem with continuation of farming operation of these young farmers.

The guarantor a lot of times of these loans have relied upon the payments for their son's operations for them to be able to live and maintain their homes. Naturally what happens with their fathers that have some assets and the son is foreclosed upon, the credit system has been coming after some of the parents' assets and to give up their homes.

There has been some real horror stories out in our countryside of people in the seventies that have given guarantees of that ended up in nursing homes because of the situation of the Farm Credit System or lending institutions or the FDIC taking back their house for collateral to pay off their son's debt.

Since 1984. the Farm Credit System has changed their policiies dramatically. The Farm Credit System has realized that there is a problem with their portfolios and are wanting to work out some of the farmers' situations.

If there is at least a possibility of a debt restructuring, if a farmer can maintain some sort of net worth of livestock, grain, and land to create a cash flow to pay back a portion of their debt to the Farm Credit System, that they are looking at this, the better today than they were 2 years ago.

At this time I would like to publicly give credit to some of those Farm Credit System individuals that have worked so hard to negotiate reasonable solutions to many of those farm problems.

Over the past months, we have seen many Farm Credit people become as reasonable as the FDIC personnel are unreasonable. The Farm Credit System needs capital to maintain reasonable contact over the Nation's farmers from the Government.

I also feel they need some stiff regulations in favor of the real farmer before the money is allotted to the credit system. Some credit systems and Federal Land Bank officers need to join together and make district offices.

I know that this is going to eliminate a lot of staff, but the farmers have had to give up a lot of land and equipment for themselves to be able to continue. I think that the burden should be borne equally and hit both entities somewhat the same.

I think that the credit system known as Production Credit Association of the Midlands and the Federal Land Bank of Omaha, each entity has a stock that the farmers has to buy additional interest as charged back against this stock.

The farmer needs to know that this stocks that they are purchasing, either in PCA or Federal land bank, they need to be guaranteed that the stock will not be frozen. I understand under the new bill, H.R. 3030, it is going to insure that a farmer the 5-year period that the stock will be worth the same as the time it was retired or purchased.

I have done over 300 proposals in the last 3 years and each proposal or compromise is different from each other. Each compromise is based on the merits on how to repay the compromised debt with the credit system.

With each and every client that is waiting to work out a compromise, I tell them they have to give up something to get something. I know this sounds cruel in a way, but in order to be able to pay off some debt, the farmer has to possibly deed back some property, sell some equipment, or reduce livestock to a management level. The bottom line is that you have to reduce debt to a manageable level.

One of the main problems that I can see in some of the compromises that are going to be done are different of the attitudes between the two systems. What I mean by the two systems is PCA and Federal land bank.

It seems to be more cooperative in restructuring of the PCA debt that it is the Federal Land Bank. If the farmer can cash flow, the credit system is either entity is willing to work with the farmer after the debt is restructured.

One problem I can see in Iowa, traveling from one end of the State to the other, is that I feel that the credit system from one end of the state to the other are completely different operating.

I know that they—they all should have the same guidelines from one end to the other, but it seems like different compromises of things are worked out differently. I would like to see rules set up so that each credit system has the same identical set of rules, that whoever is working with the farm client knows approximately what is going to take place and be able to set up some kind of a debt restructuring without excessive costs to the farmer.

I do know that the Farm Credit System across the State and no matter where you go throughout the United States is that all need at least 3 years' income tax, also a new financial statement and current inventories on hand, livestock, grain, and what else they should have for inventories that can be sold or used for collateral.

We realize that the credit system needs these things even prior to a mediation meeting so we try to have all information so the meeting can be short and to the point, and when the people leave there, each person knows where one another is at.

I think that the Congressmen and Senators ought to get together a package that would fund mediation services throughout the United States. I think mediation is some—occasionally is very beneficial and some occasions are more or less where the creditors just get their release and start foreclosure.

There are more farmers that do get some type of result through mediation than just a release. I have been in several mediation offices throughout the State of Iowa. I feel that all people that I have worked with in mediation as a mediator have been qualified and very versed—well versed in what the mediation system is all about.

I think it is very important that the farmer has a place to go and talk to the creditor off the creditor's turf in trying to eliminate the hostility that has arose because of either a foreclosure or stopping of credit.

Another thing I would like to see statewide or nationally is that when the farmer cannot afford to pay for mediation, that he should not have to pay his $25 per hour if he is unable to do so. The Minnesota Mediation Service has no charge for the opportunity to meet with the creditor.

Also, the dealings with the mediation, they would like to see the mediator insist that each mediation would have a release unless some type of compromise can be reached in good faith, good-faith negotiations. If good faith is not put forth in negotiations, then I think the creditor does not need a release.

One thing I would like to add—be added into the rules and regulations of the Farm Credit System is that the in-house appraisals be stopped for the purpose of settlement.

Yes, I agree that in-house appraisals can be beneficial for them to know what the part—and of the land values of the properties that they are appraising on. It is not fair to the farmer to go into work on a compromise when they pull out an in-house appraisal and will not tell them what the appraisal is and use it against them in trying to work out a compromise.

We recommend to all our clients that they do an outside appraisal and then use the compromised values together. The Farm Credit System came back and say to us that our—our unbased appraisals is way too low and is not feasible, but yet they will not tell us their price of their in-house appraisal.

I would like to see it be mandatory that the Farm Credit System, in the form of a compromise, must have an outside appraisal done to determine the values of the property. I think the appraisals for compromises an be selected among the Farm Credit System and the lender to determine who and what their appraisals should be done by.

This way only one appraisal would be possible and would save a lot of money in both sides' dollars. A lot of the clients we work with cannot afford to have appraisals done and the only thing that we have to go on is the appraisal of the Farm Credit System, which is an in-house appraisal.

In the Farm Credit System Act of 1987, which consists of loan restructuring by system institutions, section 204, access to documents and information, this is where I would like to have the appraisal situation appear.

It doesn't necessarily have to be stated like I put it, but it says copies of each appraisal of the borrower's and assets, this is where I would like to see a nonbasis—unbiased party do an appraisal. This is in line 5 of section 204.

Another thing I would like to see the Farm Credit System do is either side of the credit system, either Federal land bank or PCA, is to tell the farmer when there is a change in their financial position which would put them in a position of possibility of a foreclosure, even though the loan be going from a No. 1 loan to a No. 2 loan or No. 3 loan or a No. 4 loan.

Each one of these steps should be indicated to the borrower either in Federal land bank or PCA. I would also like to see that the farmers that are put in the 215 accounts, prior to that notification that they know that they are in the 215 account.

I don't know that the credit system would have a—I know—I do know that the credit system would have a negative outlook on this, but the farmer needs to know the status on the loan, his loan, at all times prior to any problems, and that is only fair.

I think that all acquired land that is acquired by either Federal land bank or PCA should have a lease-back to the farmer for at least 2 years under a type of compromise that the credit system would be able to obtain at least a 9-percent return on their money as cash rent based on the values of the property at the time of the compromise.

This would also stagger the sales of the land in the area that would put out on the open market in acquired property. Even though the credit system needs additional cash, I think this would be a good idea, and to give the farmer a chance to be able to rebuild under the cash rent system and then hope that could be able to purchase the property back with a 20 to 25 percent down payment with the going interest rate and the going value of the property at the time at the end of the 3 years.

In terms of legislation recommendation, I am somewhat familiar with the several legislative proposals, and of those I think the proposal supported by the cattlemen, the pork producers, Farm Bureau, corn, and other commodity groups and the one is the best for farmers, not the system. It does provide that we need a strong farm audit system that will allow availability of credit as a responsibility for our rate.

There is one other thing that I did not put in my testimony that I would like to bring up, is that the FHA guaranteed loans, I would like to—to indicate that I do think that the FHA guarantee loans are feasible, but they are at some point very destible (sic) to the farmer.

What I mean by that is that the Farm Credit System or the banks, whoever, use the guaranteed loans only for security for themselves and not the farmer. They need to be protected.

There has been several FHA guaranteed loans, Senator Grassley, that has been acted upon the last 2 years that the guarantee was only in place for less than 3 to 6 months and then forclosed on.

This is not fair to the farmer that has worked hard to save his land and then have two entities to fight at the end of the—his term if he is going to have to be foreclosed upon, and I think the FHA guaranteed loans should be looked into.

Senator GRASSLEY. Mr. Brent. Thank you, Mr. Kohl.

STATEMENT OF PETE BRENT, HOTLINE COORDINATOR, PRAIRIE FIRE

Mr. BRENT. Thank you, Senator Grassley. It's good to see you again. Having been personally involved in this farm crisis since 1981 and answering the hotline either as a volunteer or as a paid staff member, I have talked with thousands of farmers from across this country, and from especially the State of Iowa.

The vast majority of the calls have had to do with two lenders, the Farm Credit System—PCA, Federal land bank, and now Capital Credit—and the Farmers Home Administration. These calls have covered a broad range of problems and questions with the two lenders.

A small sample would include Farm Credit System stock and ownership rights, what's—or we thought that the Farm Credit System had a forebearance policy. Why are they doing this to me? Will they rent the farm back to me after foreclosure? Will Farmers Home participate in mediation process? Will these lenders work with me and live up to their agreements?

One thing that would help all parties involved in this problem is the ready public availability of rules and regulations of these lenders. It's extremely difficult for people to find what the rules and regulations are.

Farmers Home continuously is pumping out rules and you have to hunt all over to find them. The Farm Credit System is suffering a credibility gap in the countryside. Farmers and the rural people know that the system has been less than honest in its dealings with borrowers and the public in general.

Over the last few years, its managers have consistently stated that the system was financially sound, which turns out to be false. They have said time and again they've had a forbearance policy and told farmers they would work with them, only to foreclose on them instead.

Let me use an illustration. This last week I received a call from a rancher in west Texas who is a borrower of the Production Credit Association. This rancher could not make all of his payments on time and the local loan officer started to put pressure on him to start selling his cow herd.

The loan officer keeps telling this rancher how bad his financial condition is and that he is the worst loan in their office. The rancher finally decides to get another opinion, stops to see the local banker.

After they made up a financial statement, the rancher finds out that his financial picture is not as bad as the PCA would have him believe. The banker has refinanced and he is no longer a borrower of the system.

This story has been repeated a thousand times throughout the country over the past 6 years. Now, the only plausible reason for such cases is that the loan officer is incompetent or he knew that if he sold the rancher out, the system would get all of its money.

As it turns out, it's one more dissatisfied customer who, if at all possible, will never use the system again and will tell his story to anyone who will listen.

Another problem that I heard a lot about is the Farm Credit System's lack of realism in negotiations and the inability of staff to make decisions. First it should be apparent that the value of collateral is only worth a fixed amount no matter how much is owed. The lender will only receive what that collateral is worth. That should be the bottom figure for negotiations. Another over that would seem to be in the lender's advantage.

Second, there is a major problem with the inability of personnel to make decisions and then have those decisions overturned by higher ups once they are made. This criticism includes all parts of the system, the PCA, Federal Land Bank and Capital Credit.

The following is what happens to farmers because of this kind of situation. A farm couple from central Iowa went to mediation with Capital Credit. A workable deal was agreed to with the necessary paperwork signed by both parties.

At some later date the agent for Capital Credit was fired and the farm couple was then notified that the agreement was null and void. The farmer is now back at square one and wonders, if he gets another agreement, will that hold up.

Another farmer from western Iowa finds that his Farm Credit System loan went to Capital Credit, and for the last year he's worked out—worked at restructuring his operation to satisfy the corporation. Having accomplished that, he recently found out only the PCA portion of the loan was turned over to Capital Credit.

Federal land bank has now notified him that 20—he has 20 days to refinance his land. Now, why didn't someone tell that farmer that were only—Capital Credit only had the PCA debt? Instead they mislead him to believe that his problem is going to be resolved.

There is a concern that a consolidation of offices and functions will make it more difficult to get a loan or to work out some form of debt restructuring. Questions farmers are asking, "How will they know me or the type of farmer I am? How will we have a voice in the affairs of the system if it's administered from some far-off place? How will we know the people who run the system?

Something Congress must do with any type of bailout for the Farm Credit System is to make it fair for all parties, and that includes the system itself, farmers and the bondholders. If Congress doesn't, the small level of trust remaining will totally disappear.

Last, there is the question, "Will the lender let me buy back my homestead and farm? Will it be at fair market value?" We have seen instances where the land bank has said it will sell the homestead back at appraised value after it foreclosed on the farm. Only

after the sale did the farmer find that the appraised value was set far above fair market value, thereby prohibiting the repurchase of the homestead.

An eastern Iowa couple had this happen to them. They were foreclosed on and Federal land bank had agreed to sell them the homestead back at fair market value. The couple hired an appraiser who valued the homestead in the mid $30,000—or mid $20,000 range.

The land bank said it needed $35,000. When land bank was asked where did it get its numbers or what method did they use to arrive at that figure, the farmer was told it was an in-house appraisal. It was a way to make the price too high for that farmer to buy back his homestead.

And the last story about Federal land bank has to do with a call I received yesterday and it concerns a couple from northwest Iowa. Their homestead was sold at sheriff's sale this spring and they attended the sale and their son bid on the property $500 an acre.

The land bank's attorney did not show up at the sale so the sheriff sold the property to the highest bidder, who happens to be the son. Federal land bank is now trying to overturn the sale and trying to force this couple to pay rent on this homestead.

It would seem that Federal land bank should be after their own attorney and not after the farm couple. So all of these examples are just stories that I've heard over the last several years and I'm still hearing them every day.

With regards to Farmers Home Administration, the key factor to consider is having Farmers Home Administration write down debt to the current fair market value and keep that farmer on the land. As things stand, the only way to get a reduction of debt with Farmers Home is to liquidate the farmer's operation.

I have had many calls from people who have voluntarily quit farming over the last 3 years and have not had a settlement yet. In fact, some of these people are now being harassed by collection agencies.

In many of these cases, the couple have changed occupations and have moved out of state. Can you imagine what they feel like when they get their mail and there is this letter from a collection agency demanding full payment for thousands of dollars? Debt settlement should be one of the top priorities.

One of the strong features in house file 3030 is the provision requiring debt restructuring when it's cheaper than the cost of foreclosure. And foreclosure costs must be completely assessed in both the human and the economic terms.

With fair and equitable treatment by farmers—by Farmers Home and the Farm Credit System, the agencies probably would find that they wouldn't lose as many dollars as they are losing now.

Congress is now considering legislation regarding agricultural credit reform and Prairiefire Rural Action is strongly supporting recommendations in National Save the Family Farm Coalition, of which it is a member.

These recommendations for agricultural credit reform include: The major goal of the farm credit legislation should be to keep family farmers on the land. A commitment of Federal funds to bail

out the Farm Credit System must provide interest rate relief to borrowers as well as the banks and bondholders.

A strong right to mediation program is necessary to set the stage for effective debt restructuring. This is especially important now as Vance Clark, director of Farmers Home, has just issued an order prohibiting State Farmers Home personnel from cooperating with the State mediation program.

Debt restructuring must be done when it is cheaper than the cost of foreclosure. Very specific language must be enacted, though, to ensure fair and accurate assessments of debt restructuring so that the discretion is not left up to Farmers Home and the Farm Credit System.

Local control of the Farm Credit System must be restored. Farmers Home and Farm Credit System possesses large land inventories and every effort should be made to get families back on those farms by offering this land first to the previous owners and operators.

Legislation needs to insure that beginning, restarting, and minority farmers are given priority over other purchasers and to prevent Farm Credit System and Farmers Home from selling these holdings to large, larger than family sized farmers.

Farmers Home and borrowers need a fair appeal system, and to be heard by other than Farmers Home officials and county supervisors. And last, borrowers' rights are ensured for both Farmers Home and Farm Credit System, including the access to all signed documents, appraisals, a right to independent appraisals and adequate notification of debt servicing options.

Now, it's not on my written testimony, but I would like to say one other thing: We need Farmers Home and we need the Farm Credit System and it's imperative that we save it, but it has to be where it's going to help that farmer because, without those systems, I think Iowa, as we see it, will disappear.

Thank you.

Senator GRASSLEY. Thank you all for your testimony. I'm going to start with you, Pete, because you took a little different approach to the Farm Credit System than the other members of the panel. Are the examples you gave caused by problems with the entire system or by a few people in the system within certain locales?

Mr. BRENT. I think—I could have used any stories. These just were—happened in the last week or two since I started to work putting this together. I didn't—I didn't make any effort to go digging out old stuff.

But it's just to point out that the system, even though it's supposedly all the same, it's all different because in one section of the country now they're doing things that we had happen here a few years ago.

This west Texas rancher is a prime example. I mean we heard those stories in Iowa 2 years ago, so the systems nationwide are not all playing on the same table. I mean we're working on an unlevel playing field and farmers find themselves always on the short end of the stick.

Senator GRASSLEY. All of you on the panel indicated that the success of mediation is determined by individual attitude, preparation

and good faith. Do you have some ideas that you can give the committee?

How do we change attitudes of farmers and loan officers to make negotiations and mediation sessions work? You don't all have to answer, but I'd like to have two or three ideas.

Ms. BINGER. I think one of the keys is in building trust between the parties, that if there is not trust, trust from the—for the mediator, the mediator is going to maintain a neutrality, fairness, that there is not trust that the other party is coming to the table with good material, with realistic ideas and thoughts. If the trust isn't there, the negotiation isn't going to occur.

I think that's one of the keys we've worked at with our program, is developing trust and belief in the process and giving it a chance so that parties will come and try to make it work.

Senator GRASSLEY. What would you do as an individual or what do you do in your practice that creates an environment of trust? I think that's the basic question. I don't disagree with your answer, but what should be done to build that trust?

Ms. BINGER. I think it's done on an individual basis from one person to another person within each session. We work at keeping all parties accountable. What they say they are going to do, we check up and see that they are doing it. If it's not being done, why it hasn't been done, what the problem is, one-on-one, giving the parties the opportunity to say their piece, have an open, safe, secure environment in which they can express their problems, what they want, what they need.

All parties have that opportunity, hopefully, to get over some of their initial hostilities, anger, hurt, fear, whatever the impasse or inhibitor has been, and sit down in a neutral environment to try to work through the issues toward an agreement.

Senator GRASSLEY. Would anyone else care to answer?

Mr. KOHL. I would like to say one thing, is that the mediation service—now, I'm a negotiator, not a mediator, and what we do with our clients is that you've got to be able to get confidence back into themselves.

Once the lending institutions have come to them and more or less have indicated to them that they are no longer being able to farm like the gentlemen prior to us says, that you are too old to farm, they have lost their esteem.

When you come to us, you can't get them any lower than they are sometimes when they walk into our offices. What we do is sit down and completely go through their farming operations and try to see where some of the mistakes has been made and try to get some of the blame off of their back and also onto the creditor's back.

And if once we can prove this and get some reaction in the farmer and start to get him built back up again, and then that's when we try to get our mediation dates coordinated so we can go into mediation with some esteem.

And yes, the mediator sits there on a neutral position, and what they try to do and which I know—I think you realize, is just more or less to keep the ball rolling between the lender and the borrower so that it doesn't get into a complete argument and nothing is gained by that mediation service.

Senator GRASSLEY. Because you all have something to contribute, I'll hear all of you.

Mr. ORMISTON. I think in Iowa's experience, there are two elements required to develop trust in this system of interaction. The first thing that we did was to work to incorporate the various parties into the development and implementation of the program.

We've continued to seek input as we've proceeded along the path, as we've experienced mediation generally. So in an overall sense, I think there's got to be a good deal of preparation in dealing with the farm organizations and the lenders to develop a trust and a belief that the system can work and will work.

The second aspect is that the farmers themselves have to be prepared. Nothing can be resolved if there is not preparation, and that preparation has several components, the first of which is some understanding of the economic circumstances that that farmer faces. That's what we've set up with Mike Duffy and the FINPACK structure.

The second component is legal assistance to farmers. Farmer very often either assume they have absolutely no rights or more rights than actually exist, and for farmer and lender alike, it's very desirable to have that farmer well informed on what rights really do exist.

It is necessary to put farmers and lenders at ease with the process and make it a tool for them to use to develop a solution. The final aspect, I think is the legislation that you really spearheaded, chapter 12.

Chapter 12 does one major thing for us. Even if it's never used, it tells us that we have to look realistically at the circumstances that farmers and lenders jointly face, and that makes mediation and preparation for mediation all that much more important.

Senator GRASSLEY. Dr. Duffy.

Dr. DUFFY. I would just like to second most of what's been said and I think that it's very important that, as you look at the mediation, that you remember the Minnesota system is the Minnesota Farmer Mediation and the Iowa system is the Iowa Farmer/Creditor Mediation, and I think that it's important that it's not presented as slanted toward one side or another.

If it's viewed in that manner, then I think, no matter what laws you are able to pass, you can't change people's attitudes. And if they perceive it in the feeling of trust and the preparation has been there and it is viewed as a vehicle to get the two parties together rather than in favor of one group over another, it's going to be far more successful.

Senator GRASSLEY. Pete.

Mr. BRENT. I concur with all of the former speakers. The last thing I think with this trust is, you have to understand there are many farmers in this country right now who are very distrustful of any bureaucracy whatsoever, but with some success, and I think that's happened in Iowa, that word gets out and people then start to trust the System again. And so with a little success, a lot of trust will come back.

But I think at this point farmers all across the United States are very distrustful not only of Farm Credit System or Farmers Home, FDIC or just plain government, and until we have some success

and some things that are working, farmers are going to be distrustful of any of these things.

Senator GRASSLEY. What is the likelihood of successful negotiations for forbearance or for restructuring without assistance or intervention from third parties, whether they be people who are kind of professionals like you are in the business or just third parties generally? Tam?

Mr. ORMISTON. Well, that's hard to judge, but I think we have some experience to draw on to assess whether that would succeed. For the past 5 years, I've heard lenders, farmers like these who were before us today and their lenders, saying, "We tried negotiating, we tried working with getting other individuals involved, we did everything that we could to resolve our problem."

I think this is an extremely complex problem. The solutions to resolve this farm debt are as complicated as anything that individuals can face. The legal community is becoming aware of that. Many of the people in our State have come to that conclusion.

It seems to me, therefore, that it may well be that we're going to have to, for the time being, utilize that neutral third party. It allows a facilitation of a process that might not otherwise occur. I think lenders and farmers are learning more and more and developing opportunities for a solution among themselves.

But it is of note that something seems to be working with mediation when two-thirds of the people that go to mediation are arriving at a solution, and those are cases where negotiation had been ongoing for months or years.

Senator GRASSLEY. Anybody else have anything to say on that question?

Mr. KOHL. My feeling is that the third party—of course, we are the third party helping out, we have looked over several negotiations from other clients that have come into our office that have tried to do it by themselves.

It seems like that we do gain quite a bit of ground by using the third party. And just up until about a week ago, I had a client call me and he said that the Farm Credit System, which would be FLB, called in and said that they would do this type of a debt restructuring, what do I think about it, and I was honest with him and told him, "I don't think I could get you anything any better."

So they are coming around the Federal Credit System and saying here is that. Maybe we can get some of this done without getting their attorneys involved, without getting attorneys involved with the farmers.

Dr. DUFFY. To follow up on that point, I think that the chapter 12 is providing a very good tool that is making people realize maybe it's better to sit down and work things out rather than having to involve the lawyers.

Senator GRASSLEY. Do you think that it is good advice for a farmer who is at this stage of trouble with his lending institution to always seek the advice of a third party before he goes in to talk to the lender?

Mr. BRENT. Being I run a hotline, I think, you know, in most cases it would seem to me that the more information that that farmer has when he goes in to negotiate, the better the farmer will come out. And so if that means talking to third parties or fourth

parties or fifth parties, then that's what I would recommend to any farmer out there, is to use all the resources that are possible because in most cases, let's face it, if you're the farmer, you're sitting out there all by yourself.

The lender has attorneys, he's talking to people every day, he's dealing in the same—maybe in the same type of problems and you, as an individual farmer, don't have that information flow coming to you. So I think farmers really need to talk to third or fourth or fifth parties just to get as much information as they can.

Mr. KOHL. There is one other thing that I would like to add to this on the Farm Credit System is that—or PCA or any type of farm credit system, is that I would like to see a new line of credit that the farmer can say, for example, if he has a net worth left of $100,000 plus up to maybe $200,000 that he's in the volatile stage of possibility of being into a foreclosure with his credit lender, I would like to see that basis be changed so that he can negotiate even though that he is not in a negative net worth position because why let them get into a negative worth position and then try and get him worked out.

It's too late then when he is at a point where he has to start over again on the zero line. If he has some net worth, let's get it solved at that point and let's get a debt restructure with those points.

At this point the credit system is saying if you've got some net worth, we're going to foreclose on you, we're going after it all, if we have to do that to get this loan closed out. I don't think that's right.

Senator GRASSLEY. Darwin, you might be the one to whom I should direct this question, but if anybody else has anything to contribute, that's OK.

Are uniform standards in forbearance and debt restructuring being applied? Does the Farm Credit System communicate the same requirements to all of it's institutions and for all of its borrowers?

Mr. KOHL. You would think that's the way it should be, but you can't believe, from one end of the state to the other, how much change there actually is in that. That's the reason why I said in my testimony that I would like to see a guideline that is set up that all credit systems, either in Federal land bank or PCA, across the entire state use the same techniques.

Senator GRASSLEY. I would like to ask very generally of the panel; is there an implied discrimination against some borrowers? We had one example of age possibly being a discriminatory factor.

Mr. KOHL. I would like to just, for an example—I don't want to use any names, but if anybody that is involved in working with the Farm Credit System that has a Farm Credit loan and he is also working with farmers throughout the State, or whatever, they do frown at that and they—my opinion is that they're going to say, "Hey, maybe this is one that we might make an example of. Maybe we're not going to do anything for him."

Senator GRASSLEY. What you are saying is that farmers come to you and ask you for your help, and you work with the farmers throughout the system. Does that farmer who comes to you start out in a more negative position with the Farm Credit System than somebody who isn't using you or any other third party?

Mr. KOHL. I don't really want to say that it's the Farm Credit System. Once we enter into the position that we're going to be there to help, at the very first meeting it's like "What are you doing here? Why are you on our turf?"

This is real sad. It takes—actually, it takes one meeting from our office out to the credit system that the—say, for example, if I have to travel over into the western part of the State that I haven't been into that office, the first time that I would go into that office, it would take one meeting to get the ground broken so that he understands where I'm coming from and what we're trying to get done.

Now, in some of the systems that I work in a lot, say, in the eastern part of the State or in the central part of the State, they know the type of work that we do, what we're after, what we're trying to get done for the farmer. They understand. We can most generally get it done in one or two settings, if it's at all possible. If you go into a new territory, "What are you doing in my turf?" That's the way I feel about it.

Mr. BRENT. I tend to agree with that. If a farmer goes to a lender, Farm Credit System or Farmers Home, and he says that he's been talking to Prairiefire, he usually is starting one step lower than what he ought to be.

And that's been the way it's been up until very recent. I'm not sure at this point maybe that that whole philosophy has changed, but in the past I know that's been very relevant.

Senator GRASSLEY. Tam.

Mr. ORMISTON. Senator, there is one other group that I think ties in with what's being said. It is the group represented by people like Jim White, who spoke earlier, who, at the time that they got into the problem, were facing a Farm Credit System that was far less open to solution.

And the only option that were available to those individuals at the time was fighting tooth and nail every step of the way. In the course of trying to protect their interests during that period of time, some really bad feelings evolved and I think that, in some cases. These feelings have stoo in the way of a good solution for both farmer and creditor.

That's a darn shame because they happen to have fallen into the hole first. We've learned a lot, and one of the things we're encouraging Farm Credit to do is to look at those individual cases in a new light, get them in front of different individuals.

Personality conflicts shouldn't be the factor that keeps a farmer on or off the land or keeps a lender from making a good judgment or a poor judgment. We should encourage a situation where the best possibilities evolve by having the right people there.

Senator GRASSLEY. Let me say, this panel probably anticipated my questions more than any panel generally does. I appreciate very much the fine testimony that each of you gave. Thank you very much, and I'll call the next panel.

But before I call the next panel, I want to say that a few weeks after this hearing is over, anybody who wants a copy of the hearing transcript can receive that by writing my office or the Senate Judiciary Committee. There was a lot of interest in this hearing beyond the time that was permitted for witnesses and exchange between the witnesses and the committee members. We have given people a

right that is normally given, quite frankly, in most committee hearings, for written testimony to be submitted.

Some of that will be submitted directly to me here today. If there are some of you who came and didn't realize that you had that opportunity, you may submit in writing, as short as possible, your views on some of these issues being presented here today. If you think you have something to contribute to the legislative process in the way of written testimony and you weren't invited to give oral testimony, all you have to do is submit that either in typed or handwritten copy—as long as we can read it—to my office within 14 days. We'll see that it's part of the printed testimony just as if spoken here on the panel.

I now want to call panel No. 3. We have Mr. Ragan Brock from Monroe, IA. He is a member of the Marshalltown Land Bank board of directors; Mr. John Daubert, senior vice president of administration of the Farm Credit System; Mr. Gale Cameron, vice president of field operations for the Farm Credit Services in Omaha; and Mr. John Martin, who is vice president for Capital Corp.

Thank you all very much for coming. I would ask to start out with Ragan Brock.

FARM CREDIT SYSTEM PANEL

STATEMENT OF RAGAN BROCK, BOARD OF DIRECTORS, MARSHALLTOWN FLB

Mr. BROCK. Senator, if it's all right with you, I will not read my written testimony. I know you're short of time here today. You have my written testimony. If you have any questions, you may ask.

I have two or three points that I would like to dwell on for just a moment. One is, I'm a great supporter of the Farm Credit System. We need it badly. The system and the people in it know that I have been talking about economy moves and some of the cost cutting that we've got to do to be competitive.

We've got a lot of good people in the Farm Credit System and I can't emphasize enough that I am a supporter of that system. In my written testimony, I set out some of the things that I think need to be done.

Three years ago I had the opportunity to appear at your hearing here in Des Moines. I said then if the Federal Government planned to put any money into the system, the sooner the better, because we were going downhill fast.

I believe that now, and I think if any money is put into the system, you, as our representative or as our senator, should insist that some economy be in the System. We're going to have to cut back. We're going to have to cut drastically on expenses if we're going to remain competitive in the lending business.

I don't have anything more to say. You can ask me questions. I do think we have to restructure loans. The system itself cannot afford to do that much more than what they're doing. They can't afford what they're doing now.

If any money comes into the system, I think it should reflect to help the borrower. I think that that's going to have to be done. I think the thing that bothers me probably the worst of anything

that's happening now is that probably 50 percent of our volume is still at the high interest rate.

These people are paying their installments, but if they could get a little better interest rate, it would change the picture for a lot of people in the system.

Some of the—50 percent of our volume is still approaching 12 percent in interest. That's too high with the profitability of agriculture at the present time. So with that, I want to thank you for being on the panel and you can read my written testimony.

If I can be of any assistance in the future, you may ask me. Thank you.

Senator GRASSLEY. Mr. Daubert.

STATEMENT OF JOHN DAUBERT, SENIOR VICE PRESIDENT OF ADMINISTRATION, FARM CREDIT BANK OF OMAHA

Mr. DAUBERT. I, too, Senator, would like to thank you, and I will also keep my remarks short so that we can answer some of the many questions that you have of us.

I would like to point out a couple of things, and you mentioned them earlier, is that we do have a new management team, a new bank CEO, and we think we've made substantial changes since the first of the year.

We have embarked on an aggressive plan to restructure borrowers, to reduce the number of litigations and foreclosures, and sell so, acquire property; in other words, return property back in the hands of farmers and ranchers without damaging land values.

I particularly will focus my remarks on the legislation. Other members of the panel will deal with loan restructuring, specifically mediation. Point 1, many of the bills have a section dealing with borrower rights and you've discussed that with all of the groups. We've compared that language with our own debt restructuring proposals and programs and find that we think we meet or exceed those requirements. And because those efforts are consistent with your intent, we can agree with most of the provisions and will support that action.

Point 2, the Omaha Land Bank, in particular, needs financial assistance. Although there are some signs of agriculture stability, and the bank's loss is substantially lower than last year's, the bank cannot survive without help.

We need time and money to protect the value of members' stock, restore the confidence that many of the earlier panels spoke of in the system, and provide an economic base to begin repayment of any assistance as was done when the Federal Government first provided seed money to create the system.

Our capital, collateral, and loan loss position is sufficient to get us through the third quarter, and if recent trends in the ag economy continue, perhaps longer. However, the legislative proposals on the table do not provide direct assistance. The appropriation process that is in those proposals is a somewhat unpredictable and unreliable system and we hope that the Senate can adjust the language to take care of that situation.

Point 3, all of the bills, including the House proposal, call for an oversight corporation with responsibility for distributing the Feder-

al funds. We feel that corporation should have substantial powers and oversight concerning the financial well-being of the banks receiving Federal aid, and the ability to change management.

However, we would like the ability to manage our own affairs without interference in our day-to-day operations. There is no need for costly duplication of services in this area and we believe that the lending decisions, the credit decisions, the loan pricing decisions, as earlier discussed, things like mediation, can be best made closest to the farmers who borrow from the system. Management by Washington is a concept that seems to be inconsistent with local control and local responsibiility now desired by many congressional leaders.

Point 4, the Senate bill calls for stockholder vote approval before any structural changes can take place, while the House version mandates major structural changes. The intent, we think, behind those would be to reduce overhead costs and eliminate much of the duplication that is in existence in the system.

We applaud those efforts to reduce those costs and will work hard at doing that. We, however, feel that the House bill does not make any adjustments that will achieve those results. In the meantime, our own plan calls for the elimination of many management layers in the Omaha headquarters and streamlining our credit delivery system. We expect to gain at least a 30-percent reduction in costs, which translates into over $20 million in this district annually.

We are currently gathering grassroots input concerning system structure and the directors across this district and across the country are meeting later to develop a plan for structural change that should benefit borrowers and ranchers across the nation.

Point 5, all proposals call for the creation of a secondary market for mortgage-backed real estate loans. It will provide another source of ag credit to rural America. We think we can use this product effectively to serve our members.

One possible improvement in the secondary mortgage market, which we think would help all borrowers, would be to require all lenders using that market, not just the Farm Credit System, to comply with the borrower rights language that is eventually adopted in the legislation.

Over the past months, the Omaha district has tried to reduce interest rates, aggressively restructured loans, and worked hard to keep others out of insolvency and reduce overhead costs.

We are working hard to be the dependable lender and competitive source of ag credit that you have heard farmers and ranchers need today. We wish we could have helped more in the past, but we simply do not have an unlimited source of funds. Our mission is, and will be, to continue to provide this credit to our borrowers.

Once again I thank you for the opportunity to provide input and I will answer any questions.

Senator GRASSLEY. Thank you, Mr. Daubert. Mr. Cameron.

STATEMENT OF GALE CAMERON, VICE PRESIDENT OF FIELD OPERATIONS, FARM CREDIT BANK OF OMAHA

Mr. CAMERON. Thank you, Senator Grassley, and in essence of time, I'll just highlight certain aspects of my written testimony.

You have already heard and recieved a lot of feedback in regard to mediation. Farm Credit Services in the Omaha District and especially in the State of Iowa has gained a lot of experience with mediation during the last year and I think we can say, without any reservation, that we usually have found mediation to be effective.

As with anything, rarely is it ever perfect. Whenever you have people involved and hundreds of different kinds of situations, some mediations develop much better than others—and during the last year, we have been involved in a majority of the mediation cases in the state of Iowa.

We've also gained a lot of experience through that process. In late 1986, early 1987, we spent a lot of time working with the mediation service to try to identify areas where we could improve our mediation efforts, and I think that was a very successful effort.

We have just recently began holding meetings in the various regions in Iowa involving Capital Corporation, Farm Credit Service lending officers, and mediation service personnel to discuss performance in the area of mediation, what we can do to imporve, and what procedures can assist in that fashion.

So we are continuing to work very closely with the mediation service to not just carry out the requirement, but do it in a way that it benefits both the farmer borrowers and the Farm Credit Services.

I think our support for mediation has also been demonstrated in the fact that we have worked in other States. I was actively involved in the State of Nebraska on a task force to develop a mediation bill at the request of the Nebraska Legislature, and that bill was formulated by the task force, introduced in the Nebraska Legislature this 1987 session, has been considered by committee and hopefully will be acted on by the legislature during the 1988 session. The State of Wyoming has also enacted a voluntary mediation bill this year, and we will plan to support that activity.

As part of the legislative effort and based on our experience in mediation, I would like to offer some suggestions as you may be considering the development of—either a nationwide mediation law or program. They are part of my written testimony but I would like to go through them specifically.

First, we feel that it would be beneficial to the farmer debtors to provide a means for them to receive legal, financial or social services assistance that may help them either get better prepared or as prepared as they can for the process of mediation, but also, in some cases, to maybe prepare and help them in the process of a change of career because sometimes that is one of the results.

Two, we think any new law or program should be applied prospectively. One of the challenges we had in Iowa, and as the mediation service also has testified, is having to stop a significant number of litigation cases midstream and go through a mediation process. That puts an extreme burden on everyone carrying out the medication process, as well as all parties involved.

We think a reasonable debt limit should be established as a threshold for mediation and suggest a range of $20,000 to $40,000. We think a reasonable timeframe to initiate and complete the process is a 40- to 50-day time period.

We think there needs to be a level playing field for the lender and the debtor. We think it is applicable in respect to mediation in that all lenders must request mediation before attempting to enforce any debt collection action through the courts.

We think the contra of this should be considered, that a debtor should request mediation before filing any form of bankruptcy, again in order to give them the opportunity to try to negotiate and work out a resolution to the situation.

There also are a number of State and Federal laws in regard to borrower rights, that at times are in conflict. As a system, you have heard the need for us to reduce operating expenses. We support very clearly the need for borrower rights, but we cannot afford to provide a competitive lending service unless we have a system that everybody can work with and not have a duplication of requirements. They need to interface very closely together so there are not duplicate requirements. We think the requirement for mediation should apply to all lenders.

That would conclude my testimony.

Senator GRASSLEY. Mr. Martin. Thank you very much, Mr. Cameron.

STATEMENT OF JOHN MARTIN, VICE PRESIDENT OF CAPITAL CORP., FARM CREDIT BANK OF OMAHA

Mr. MARTIN. Thank you, Senator, for allowing me to be here to discuss the Capital Corporation. I also would like to limit my remarks, I think, to the central issue of restructuring.

My written testimony covers other issues, such as the Capital Corporation organization and agreements with the Omaha District. The responsibility that the Capital Corporation staff in the Omaha District has is dealing with a certain portion of the portfolio, approximately 85 percent of the district's nonaccrual loans plus all acquired property are in the special account function activity.

We attempt to resolve these loans primarily by using two main goals. The first responsibility we feel is to the shareholders of other districts that have provided financial assistance to the Omaha District, the borrower members of the Omaha District, and potentially the U.S. taxpayers.

Our goal is to minimize losses to assist in resolving loans or marketing the farm property. However, our second goal is to do everything that's reasonably possible to keep producers on farm—on the farm or ranch in some sort of viable agricultural operation, if they so choose.

I would frankly admit that the emphasis on the second goal is a recent or this year activity, and that, frankly, was not discussed in earlier years.

We are an active supporter and participant in the district's rebuilding plan. The function it serves is to concentrate on the problem areas while permitting the lending operations to concentrate

on servicing the needs of current and prospective borrower members.

At the first part of the year, the district was beset by problems, many of which, frankly, were caused by the system itself for a number of reasons. We have made some changes and implemented in the last 8 months a number that we feel respond to the needs and situations and frankly constructive criticisms that I have received.

For example, lending authorities have been reexamined and delegated to the local offices so that decisions can be made by local offices dealing directly with the borrowers. Some policies and procedures have also been modified.

These changes have resulted in the reduction in the number of lawsuits, improved relationships with mediators, and an increase, which I will detail in a few moments, in the number of successful loan restructurings throughout the district.

I do want to emphasize we are not satisfied totally with the level of foreclosures and bankruptcies and we continue to challenge the lending personnel in special account function to increase the level of loan restructurings.

There are many indications that these efforts have been paying off. Since January 1, 1987, Capital Corporation has finalized settlements on 2,918 nonaccruing loans: only 413 were foreclosed; 494 loans were paid in full; 765 were reinstated to accrual status; and 1,246 were restructured, compromised, or reamortized. In addition, 1,474 ongoing relationships were either paid current, restructured or reamortized.

This year from March through August 10th, as part of the district's rebuilding plan, Capital Corporation and the district offices jointly restructured over 2,271 loans totaling over $566 million. In addition, the Federal Land Bank engaged in 918 forbearance actions, representing over $111 million.

Another aspect of the operations, as I mentioned earlier, was the liquidation or marketing of acquired properties. During the first 7 months in the four States within the Omaha district, we have sold approximately $200 million in property involving over 500,000 acres without adversely affecting land values.

The average sale price has exceeded 102 percent of the appraised value of the property. The size of a typical transaction in Iowa, for example, in July has been 157 acres and $98,000. Approximately 75 percent of these sales are to local farmers, 23 percent of sales have been to investors, including retired farmers, families of former farmers, and farmers who have purchased for investment reasons. The balance of the sales are rural home purchases.

The district officers, including the Capital Corporation staff, have successfully met its objectives to date in the reduction of nonaccrual loans and minimizing losses to the system.

We believe we have kept many borrowers in agriculture in viable operations and have had a positive impact on land values in the State of Iowa. I also believe that we have much yet to be done and I'm sure, based on the testimony that you've heard earlier today, that is obvious.

But we have been making significant strides. And in this attempt we are working, hoping to have an environment of working strong-

ly for an environment where we have an honest, open and professional relationship with the borrowers that are attempting to restructure the loans. Our commitment is to continue and improve this process.

Thank you.

Senator GRASSLEY. Thank you very much. I appreciate that testimony and particularly appreciate the time that you were able to leave for us to have some exchange, although I probably won't be able to ask all the questions I would like to ask.

I'll start with whether or not you think an effective secondary market available for commercial banks and insurance companies, as well as the FCS, would take away a large share of your business.

Mr. DAUBERT. Hopefully we can adapt our own products and system to effectively meet any kind of competition that a secondary market would provide. We do have a number of borrowers who would qualify for that kind of lending institution, but we think we can use it appropriately to help our own borrowers and help our own system.

There are some other districts, however, that very honestly may not be able to meet the kind of competition that we could in this particular district.

Senator GRASSLEY. Ragan.

Mr. BROCK. I am opposed to the secondary market. I date back a few years when I remember the commercial banks were not interested in making long-term land loans. I remember when the commercial bankers collected the finder's fee at one time from the farmers for simply telling them where the land bank office was.

I'm fearful that in the process of trying to get legislation to help the Farm Credit System, we may give away the store as far as our lending has been in the past, like it's been in the past.

I'm fearful that the better—better loans may tend to migrate to the commercial banks, the insurance companies, and we may be left with the rest.

Senator GRASSLEY. H.R. 3030 would consolidate the 37 banks into just 6. Would that enable the system to better serve farmers or would it just centralize the system even more? How would it affect the banks in Omaha?

Mr. DAUBERT. H.R. 3030, with respect to the banks in Omaha, would eliminate all district banks and put back all assets and liabilities back to the association, so in Omaha you would have a PCA and 31 land bank associations managing their own assets.

They then, in turn, could contract with one to six service centers to provide some central services, such as accounting and MIS. The difficulty I have with that is that if you are a corporation accountable for all of your decisions, you will probably need the kind of staff on hand to make the pricing decisions, the Treasury decisions, the funding decisions, et cetera, so whether or not they can gain the kind of efficiencies that the House is asking for through this particular amendment, I have to say I don't think so.

Senator GRASSLEY. And consequently you do not think that it would serve the farmers well either?

Mr. DAUBERT. No, I definitely do not. As a matter of fact, I think that in our own district, if we could continue following the kind of plan that we are on, and that is reducing the central oversight

from Omaha and putting the decisions out into the field, we'll end up serving the borrowers a lot better.

Senator GRASSLEY. When will the Omaha district run out of money and what will that mean to the farm borrowers?

Mr. DAUBERT. I estimate in my testimony, we have enough capital and collateral to last through the third quarter. Moving beyond that is a little bit difficult because we have to ask ourselves what will happen to commodity prices and land values.

We think if it stabilizes, there could be some relief. But in any event, to be able to rebuild the system in the Omaha district and in Iowa, we need some financial assistance which we fully expect to repay.

If we run out of money and we don't receive assistance, we could find Omaha facing liquidation. Liquidation could cause a number of problems for farmers and ranchers that we could avoid by providing assistance.

Senator GRASSLEY. Ragan, did you want——

Mr. BROCK. I agree. I think the third quarter will be done and I think that—I think one of the things that has been bad in the past has been the Farm Credit Administration, the three individuals.

There has been no meeting of minds, and certainly the press releases that I have read, there has been no unanimity among those people, which bothers me some. I think those people should be on top of it.

Senator GRASSLEY. Assuming that we're going to have help from the Farm Credit System—and I don't believe that is in dispute—it's more or less a matter of when it's going to come. I thought it would come by March or April and then evidently things weren't quite as bad as we had anticipated. Perhaps you folks were doing a better job than we anticipated. Now it should be some time in the fall.

I've always thought that the real controversial issues in Congress are what Congress will do to see that the help filters down to the farmer, what Congress will do to help lower the interest rates, and how Congress will increase farmers' rights.

So I want to go immediately, instead of asking what you might have expected to be the obvious, to ask why Congress should bail out the Farm Credit System. But assume that that's going to happen and say how you see farm borrowers directly benefiting from whatever financial help we have, whether it be a bailout, a grant, a line of credit or something else. There are some suggestions that are Mickey Mouse approaches that aren't really predictable. But everybody understands that there must be some help there and some budget impact eventually.

Who wants to answer?

Mr. BROCK. Well, I think it's very obvious that we're going to have to have lower interest rates, and if this could be factored into the bill to where, you know, back in the 1930's, I think, there was some action in Congress that allowed a buy-down in interest rate and I think that's needed immediately, that if we can get—particularly for those people that are paying 12 percent, I think the sooner that these people can have some relief, it will reflect into the system.

The cost of bonds, as I see it, and our cost of operation right now will not allow any lower interest rates in the foreseeable future, unless there is some infusion of money.

Senator GRASSLEY. Yes. sir.

Mr. MARTIN. Prior to joining the Capital Corporation, I was 15 years with a large regional commercial bank in agricultural production credit and I would just add one additional point, that without Farm Credit System, borrowers, farmers who borrow from commercial banks will be adversely affected if the Farm Credit System is not there in a strong position to be competitive with the commercial banking units.

I think that's a major point for all agriculture to consider, the benefits to that portion that aren't Farm Credit borrowers, members.

Senator GRASSLEY. Assuming that Congress hasn't looked at all possibilities of getting the system back on its feet without coming to the Treasury for assistance, is that possible? And how much does the Omaha district have in loan loss reserves?

Mr. DAUBERT. Again I don't think the Omaha distrct can survive without assistance and so we have to operate off of that base, and whether it comes from the Federal Government or from whatever source, at this particular moment we are not really—as long as money flows to the district, we'll appreciate that.

Senator GRASSLEY. What is the loan loss reserve?

Mr. DAUBERT. Yes. The loan loss reserve stands at $465 million right now. $465 million. It's about 13 percent of the total loan portfolio. That's just in the land bank.

Senator GRASSLEY. What would be the impact of using those reserves before coming to the Federal Treasury?

Mr. DAUBERT. We are using those reserves. Cumulative through the second quarter, we have had $80 million in charge-offs which go directly against those reserves, so as we anticipate loan restructuring and mediation and compromises, we charge off those loans against that account.

Senator GRASSLEY. What is your view of the Iowa mediation law and how do you prepare for those sessions?

Mr. DAUBERT. I personally don't participate in mediation.

Senator GRASSLEY. No, but how do your people prepare?

Mr. DAUBERT. We expect them to go there with as much information as they possibly can about the farmer's financial condition, plus we expect them to be able to make the decisions.

Senator GRASSLEY. Are you pretty much satisfied with Iowa's mediation law?

Mr. DAUBERT. Yes, we think it's helped tremendously, but I would like Gale to answer—Gale is a little bit more of an expert than I am.

Senator GRASSLEY. Please do that. I'm sorry. Maybe I should have directed the question there in the first place.

Mr. CAMERON. No. We think the Iowa law has been implemented and applied in a reasonable fashion. We are supportive of the law, and in our efforts in Nebraska we took a lot of the primary elements that are in the Iowa law, and in some cases I think we suggested a few enhancements, but I think the recommendations that I provided in my testimony are essentially the key elements we

think are important to any mandatory mediation bill, and those are very similar to Iowa's.

Senator GRASSLEY. Mr. Martin, how is the agreement between the Capital Corporation and the St. Paul district different from the agreement with the Omaha district?

Mr. MARTIN. I would also mention the only Mr. Martin I know is my father, so that's fine.

Senator GRASSLEY. OK, thank you.

Mr. MARTIN. The basic difference is that the Capital Corporation does not have an active supervisory role of the special account function in St. Paul. The St. Paul agreement was entered into after the Omaha agreement, but primarily the difference results from the fact that the St. Paul district was one of the few districts that had a special asset group in place and functioning. The Omaha district did not, and that, I guess, would be the main difference.

Senator GRASSLEY. Would that prevent the Omaha district from restructuring loans similar to the way the St. Paul district does?

Mr. MARTIN. Well, I can't really address the St. Paul process. I can say that the Omaha district—the Capital Corporation staff operates under the district policy of the Omaha district.

Senator GRASSLEY. All right. We're thinking of the relationship between Omaha and the Capital Corporation versus St. Paul and the Capital Corporation. You explained to me why it was set up differently, and that is legitimate.

What would prevent the Omaha district from restructuring loans in that same fashion as St. Paul does if Omaha wanted to do it now?

Mr. MARTIN. Restructuring the agreement between the Capital Corporation and the——

Senator GRASSLEY. Well, but the end product is how they work with their individual.

Mr. MARTIN. I'll answer it both ways.

Senator GRASSLEY. OK.

Mr. MARTIN. There is nothing to prohibit the district and the Capital Corporation from changing the current agreement to one that is more similar to the agreement between St. Paul and the Capital Corporation.

The main point is, now that we've had 8 months of development of the special asset group within the district, the real test is the performance of the special asset group and the performance has been very good and the Capital Corporation has recognized that and so the Capital Corporation and the district have entered into discussions to modify the agreement a little more in tune to what the St. Paul agreement is like, possibly along the lines of changing the agreement between the Capital Corporation of the Wichita district that occurred last month in which the Wichita district took back some of the direct responsibility for restructurings and loan resolutions within the district.

Senator GRASSLEY. Mr. Daubert, I'm getting close to the end of my questioning. What can your management, meaning the management of the Omaha district, do to keep so many loans from becoming nonperforming?

Mr. DAUBERT. I think we've started addressing that issue and, as John mentioned, we have both the special asset group, which

works with the nonaccruals, and our ongoing lending operations which does deal with those individuals that aren't yet nonaccrual but may be undercollateralized or having problems.

We have encouraged and will continue to encourage those units to restructure the loans before they become nonaccrual. We estimate that over a thousand loans have been realized before going nonaccrual. We have solutions in place and we will continue to work toward returning the bank to a viable position.

And another thing that's happening is that our delinquencies, which might be an early signal of that happening, are less than 1 percent, down from 10 percent last year, so you can see the change that's happening over time.

Senator GRASSLEY. Have you seen a decrease in the amount of loans that have to be restructured?

Mr. DAUBERT. We have seen a decrease in the delinquencies, which are those individuals that have missed payments.

Senator GRASSLEY. Does that mean the same thing that I was asking?

Mr. DAUBERT. We think it means the same thing, but because we do not have current financial information on those customers, the only thing we can rely on is that more farmers are able to make their payment on time at this point. So we hope that that will translate into less need, or maybe what it's translating in is that we're starting to address the problems of those people who might become delinquent earlier in the ball game.

Senator GRASSLEY. Last year FCA testified before this same committee that the purpose of the differential interest rates was to maintain what they referred to as good borrowers. With the experience you've had, was that purpose accomplished?

Mr. DAUBERT. We think so. The percent of volume in those better categories has increased from the first of the year substantially. As a matter of fact, Ragan testified a number of people do have high rates. We are reducing all of the categories, all of the rates, and right now 60 percent by volume have a rate lower than 10.75.

Most of our customers are on or are already in our preferred rates of double "AA" or Triple "AAA". Some borrowers have not applied because they choose not to, although we are trying to encourage them to apply.

The application will result in an interest rate. We do not anticipate increasing anybody's rate once they enter the individual pricing program.

Senator GRASSLEY. Do you think that it would be fair for me to say that maybe we haven't had enough experience yet to really know?

Mr. DAUBERT. It's difficuilt to say, but we do know that we have a lot of individuals that can go to other lenders and receive a much better rate. We have pricing exception authority out in the field to help us keep those people borrowing from the system. However, we have individuals coming to us and saying that they can move to another lender.

Senator GRASSLEY. Ragan, I would like to have your view on the local perspective of this issue.

Mr. BROCK. I'm personally philosphically opposed to the different interest rates and I think most of our directors and our local associations are opposed to that. I think that the—and I could be wrong on this, but I think my personal opinion is that one of the aspects of a co-op was that everybody was to pay the same interest rate, and I think it's created a lot of problems for us public relation-wise.

While I think that the program may have changed, may have helped some, most of the or an awful lot of the—of the better borrowers had left the system prior to when this was initiated.

But' it's a real tough thing for me to accept the fact that a co-op where one person pays a higher interest rate, and I know what the justification is, that it's based on risk, but I still like the idea of one, one interest rate.

Senator GRASSLEY. I have no further questions. In closing, I would like to say that there has been some indication here at the hearing that there are some positive results from changes that have been at the Omaha office. We appreciate that very much.

I had an opportunity the first time to meet Mr. Kirk when he came to my office, I think it was in May. I had a chance to have a nice visit with him. I very much appreciated his attitude and his efforts to make the thing work and make it change.

I told him, as I'm sure maybe he reported to some of you, about some of the bad experiences we have had over the last 2 or 3 years and how I felt that support for the system had gone down. I told him that I thought he had a very difficult job in what he was about to do, and that I would welcome changes because there aren't any of us there that do not want the Farm Credit System to be that well respected argi-lending agency that it has been.

Maybe my analysis of it is a little more critical or pessimistic than it should be. I don't happen to think so. I hope it is, though. But regardless of where we are, whether we are in the best possible relationship with the grassroots and farming generally or in the worst relationship, I think we have some improvements to make and I want you to know that I appreciate every effort that's being done.

I suppose in the meantime you'll wonder whether or not I'm sincere when I say that. If I continue to express a negative attitude or too much pessimism or too much cynicism about the system and its willingness to change, that's only because maybe changes to come slowly to us in Washington. Those changes are being carried out. There isn't a really good way to do it, except to exert through the Congress what pressure we can to see that those changes are made.

But anyway, it's all in the process of making the system that was started by the Congress seven decades ago really accomplish the goals that we want it to accomplish. It has accomplished them

We feel a little bit removed from them now but that we are slowly moving back to them. That's the whole process. We want it to work. Thank you all very much for your participation.

I will now call panel No. 4. The first person is Randy Beichley, Tama County Farm Bureau president, and he was also voted the 1987 Iowa Outstanding Young Farmer; Barb Merchant of Garrison, IA, a member of the executive board of the Iowa Farm Unity Coalition. She farms 440 acres with her husband in Benton County,

raises grain and livestock, is chairman of Farmers Helping Farmers and a member of the Iowa Cattlewomen's State committee.

We next have Ben Kern of Norwalk, IA, a past president of the Iowa Soybean Association; and next, Derryl McLaren, Farragut, IA, chairman of the National Corn Growers Farm Committee. He testified last year on Farm Credit at the Statehouse where I had a similar meeting. He is now in his second term as chairman of the Iowa Corn Promotion Board, director of the State and National Corn Growers Associations. He's been a farmer since 1972.

And we have Jim Mullins representating the Iowa Cattlemen's Association. Jim also is a member of the Omaha District Board of Directors of the Farm Credit System.

And then, Don Gingerich, Parnell, IA. He's farmed for 27 years; now in the hog and cattle business with corn and soybeans as well. He was a borrower in the Farm Credit System until 1985. He is a member of the executive committee of the National Pork Producers, and also is on their task force on Farm Credit. He is also past president of the Iowa Pork Producers.

Now, I'm going to have to do something that's not very popular when you're the last on the program and ask you to summarize even more than you were anticipating summarizing your statements and I'm not even going to have time to ask you questions.

So you may have to—at least we would hope that you would—cooperate in the sense of answering our questions in writing. And the reason for that isn't because I want to shorten this up, but because we do have an obligation of getting out of here so that the program can be changed and another program started immediately at 5.

So that means that we have about one-half hour for me to listen to your testimony, or a little bit less. So I hope that each of you go in the order that I ask you to. Please be appreciative of the fact that I may have to say I can't give you any more time because we don't want to cut the other people out. But your entire testimony will be inserted in the record as if stated here in whole. Thank you very much.

Randy, would you start.

FARM AND COMMODITY GROUP PANEL

STATEMENT OF RANDY BEICHLEY, PRESIDENT, IOWA FARM BUREAU

Mr. BEICHLEY. Thank you, Senator Grassley. Good afternoon. My name is Randy Beichley. I'm president of the Tama County Farm Bureau. My wife, Susan, and I farm near Gladbrook and produce feeder pigs.

It is my pleasure and honor to present the following statement on behalf of 150,000 family members of the Iowa Farm Bureau Federation. Now I need to start paraphrasing. In Iowa we've led the Nation for decades in hog and corn production, but unfortunately, in the past few years, we've also led the Nation in credit difficulties.

This situation is reflected in the huge losses suffered by the Omaha Farm Credit District and the shrinking number of borrowers remaining with the Farm Credit System. I must admit I'm one

of the hundreds of Iowa farmers who have left the Farm Credit System.

I became very frustrated this past spring when I felt I had opportunities to expand and the Farm Credit System just was not very enthusiastic about those opportunities. The first two banks I went to were very receptive to ideas and glad to have my business. I am now a member of one of those banks and no longer have a business relationship with the Farm Credit System.

It was very frustrating to me. I felt like I was a troubled borrower and that I was getting the same line read to me as anyone else who was having problems, and I simply was not in that situation. I was very frustrated.

The House Ag Committee spent many long nights prior to this August recess attempting to draft a bill dealing with the numerous issues requiring a resolution. I would simply like to comment on three or four topics which the full House and Senate will be forced to address.

Funding. Our first concern is that H.R. 3030 authorized the spending at "such sums as may be necessary" for 1988 through 1992. We are really concerned about that phrase. Remember we had problems with the Commodity Credit Corporation this spring not getting funds available because of other things going on throughout the world. We have an example in the printed statement that you can read. Say that some world crisis comes about and we try to task a little amendment on that bill each year. It's just going to delay the funds. We need to get something set up that would provide funding for 3 to 5 years so we can make a long-term viable plan.

The second is the system reorganization. We feel there is definitely reorganization that is needed. We have to be careful that we keep the current borrowers—the end goal should be to keep the current borrowers on the land as long as economically feasible.

Farm Bureau had a 21 point plan mentioned earlier that calls for elimination of the Capital Credit Corporation in favor of a new entity to administer the Federal assistance package. The Temporary Assistance Corporation contemplated by the House Ag Committee appears to be similar in the function of the organization outlined in the Farm Bureau plan. We realize that Federal oversight will be needed during this period of assistance. However, we want to assure that once the system is again viable, borrowers' control is reestablished.

Third, we do favor a secondary mortgage market. We feel that the secondary market should be available to all lenders, not merely the Farm Credit System. Creation of the secondary market should provide additional competition for the long term ag lending market, thereby providing more competitive interest rates for all farmers.

Fourth, the State mediation programs. To us they are very important. We have been a strong advocate of the Farmer/Creditor Mediation Service in Iowa. We feel that we struck a workable balance between the interests of farmers and lenders. In our statement, we felt that we would like to have you talk to these people, and we were pleased to see that you already had them at this hearing to give their comments.

In conclusion, Iowa farmers are hopeful that this is the year that finally brings more than a temporary solution to the ills of the Farm Credit system. It is difficult to be terribly optimistic, but it appears that perhaps the worst is behind us. The total amount of debt held by farmers is down and the losses of the Omaha district are declining. Unfortunately, we will continue to lose some farmers. We must be compassionate. We must also continue to work for solutions that bring stability and strength to our ag community. Thank you.

Senator GRASSLEY. Thank you, Randy. That was only 4 minutes. I appreciate it very much. Now Barb.

STATEMENT OF BARB MERCHANT, MEMBER, EXECUTIVE BOARD OF THE IOWA FARM UNITY COALITION

Ms. MERCHANT. Thank you, Senator Grassley, for inviting the Iowa Coalition to participate in this panel. First of all, the Iowa Coalition feels that the entire system of ag credit must be reviewed. The Farm Credit System cannot be allowed to fail. Even though we have a somewhat higher livestock price and larger Government cash outlay into the farm economy, still the system is in serious trouble. The Iowa Coalition supports the debt restructuring program in the Family Farm Act. This program builds on the highly successful experience of State-run mediation programs. Mediation allows a borrower to come together with all his or her creditors with a neutral third party to find an alternative to foreclosure, bankruptcy, and liquidation.

The mediation has produced serious negotiations and settlements out of court, thus relieving our overworked court system. A right to mediation program using a Federal/State partnership should be established that would benefit Farm Credit borrowers with Farm Credit being required to participate in good faith in the State mediation programs and abide by all the State laws.

Borrowers' rights should include the right to sue, access to all signed documents, appraisals, and information regarding loan forbearance, restructuring, and lease buy-back decisions, strengthening of the forbearance and the restructuring language, protection against demands for more collateral. Also, the Farm Credit system should continue to loan to borrowers with approved chapter 12 plans.

The farm credit borrowers must have access to a fair appeal system to appeal the decision made regarding loans, the forbearance and the restructuring programs. Borrowers must have the right to obtain all the documents used to determine ineligibility and have the right to call for an independent appraisal.

The Farm Credit System should be required to comply with the State's law, such as the Iowa homestead law, the mediation law, and all State laws pertaining to the legal process.

Bondholders of the Farm Credit bonds should participate in any program to assist the Farm Credit System. Before any Federal guarantee of Farm Credit System bonds, bondholders must agree to adding a recall provision so the bonds can be issued at a lower interest rate.

Although the income tax consequences, while not within the jurisdiction of the committee, attention should be paid to the possible income tax consequences to borrowers of loan servicing options. As should be done in chapter 12 of the Bankruptcy Code, forgiveness of debt should not be considered in the borrower's gross income.

More bankruptices were filed in 1987 than in 1986 in Iowa. That alone says the farm crisis is still among us on the land. The Iowa Coalition thanks Senator Grassley and the committee for the opportunity to present its views. Thank you.

Senator GRASSLEY. Thank you very much. Ben, you're next.

STATEMENT OF BEN KERN, PAST PRESIDENT, IOWA SOYBEAN ASSOCIATION

Mr. KERN. On behalf of the Iowa Soybean Association lobby, we thank you for this opportunity to present our feelings on the very complex issue of farm credit. My name is Ben Kern and I farm near Norwalk in Warren County. I currently serve on the board of directors of the Iowa Soybean Association and am immediate past president of that association. The Iowa Soybean Association believes the Federal Government has an obligation to maintain an ag credit system.

Just as Chrysler Corporation asked and received significant U.S. support a few years ago, we feel the same help again should be offered the entire Farm Credit System. The benefits of Government support loans should extend to the borrowers. Farmers should be protected by guarantees on borrowers' stock. The system can't survive if stock is not guaranteed very soon. Lower interest rates should be given to good borrowers who make payments on time.

We don't support putting additional Government funds into the Farm Credit System without several changes in the system. Changes such as lowering the administrative costs need to be done. The Governor of Iowa and the State legislature have developed the mediation law and these procedures have greatly aided Iowa farmers and lenders in these difficult times.

The ISA supports strengthening agricultural and agribusiness lending agencies to assure that the credit needs of the soybean industry will be adequately met at the lowest possible interest rate. ISA feels the Farm Credit Administration should be made up of personnel from ag-related industry, agricultural and financial backgrounds. ISA feels the Federal Reserve Board should be made of personnel from industry and agricultural and financial backgrounds.

The ISA supports the central issues under the Farm Group Coalition bill, the so-called Agricultural Producer and Farm Credit System Borrower Act of 1987. Principles such as guaranteeing ownership of all borrowers' stock and advocating restructure of loans instead of foreclosure where cost figures dictate are supported by ISA.

Again, thank you, Senator Grassley, for this opportunity to express our Soybean Association views on the Farm Credit System.

Senator GRASSLEY. Thank you very much. Derryl is next.

STATEMENT OF DERRYL McLAREN, CHAIR OF FARM CREDIT COMMITTEE OF NCGA, IOWA CORN GROWERS

Mr. MCLAREN. OK. Thank you, Senator. My name is Derryl McLaren. For the past 3 years I spearheaded the National Corn Growers' efforts on the Farm Credit legislation. Besides the written testimony today, I also have an appendix that I would like to offer to you on farm/creditor mediation, which I'll make available after the hearing rather than go through that right now.

I would first like to commend you for your interest in the farm credit arena, and particularly in establishing chapter 12 Bankruptcy Code that has been available to us. This is the second time I've had the pleasure of testifying before your distinguished committee.

We believe that the high-cost bonds issued by the Farm Credit System in the 1978 to 1981 period is the main problem of the system. These bonds would cost farmer borrowers of the system nearly $8 billion in additional interest costs over the years 1985 through 1989 alone. These bonds have allowed other financial lenders to charge higher interest rates as well and they cast a dark shadow over the financial future of farmers in the system. It is the reason behind implementation of the tiered interest rate system which, in our opinion, is restructuring and forbearance in reverse.

Reaching into someone's left hip pocket for additional dollars of interest is no cure for financial distress. We support the provisions of the Farm Group Coalition proposals and reiterate the need for restructuring requirements as a component of credit legislation. Farmers and grandfathers of current Farm Credit System borrowers would have a hard time recognizing that this is the same system that helped them through the troublesome 1930's. There are varying forms of oversight authority to administer the Government funds which may be required to recapitalize the Farm Credit System.

We ask that you use extreme care in choosing the proper structure and board appointments to such an entity. No one believed that the addition of Federal assistance wouldn't be contingent upon some type of consolidation to create a more comprehensive and competitive delivery system of agricultural credit. The Stenholm amendment offers potential for the discussion of system consolidation, local control of the most vital functions. How rapid the system changes structure and the definition of authority at the local level are key questions yet to be answered.

Agriculture needs a secondary market, not just a study of one, not just a secondary market for the Farm Credit System, but one for all commercial lending institutions. But unless the Farm Credit System is adequately recapitalized and streamlined for the efficient delivery of credit, the secondary market will spell disaster for the Farm Credit System.

Senator, don't be lulled to sleep by the recent release of encouraging quarterly financial data from the Farm Credit System. At best, we feel it tells us that the credit situation in agriculture has been stabilized. In other words, farmers are able to pay their excessive interest bill for the first time in many years, but they have done so courtesy of record Government income transfers in the

form of deficiency payments, successive record crops for most, and extremely profitable livestock ratios.

We could well be looking at the most profitable years of the 1980's. Meanwhile, farmers in the Farm Credit System continue to pay excessive interest rates and require restructuring. The Farm Credit System has been ravished of its capital and loan volume, leaving it an inefficient source of credit. While some of the problems of the system are self-inflicted, we must remember that they were committed under and within existing regulatory safeguards and law.

When these internal actions were coupled with the external impacts of record deficit spending, three grain embargoes, and a 180-degree turn in monetary policy, we experienced the resulting meltdown. Three years ago the Corn Growers identified the 1958 farm bill and farm credit as being two separate issues with distinctly different issues. It's imperative that a source of funds be identified in the current credit legislation.

As a caveat to the legislative proposal of the Farm Group Coalition, those funds cannot come from the 1985 Food Security Act without having a destabilizing influence on the effectiveness of the credit legislation. Consider, Senator, that any decrease in income will not only hurt the farmers you are trying so hard to help, but also those that you are not trying to help. Land value is a direct function of interest rates and income.

Reduced income or higher interest rates translates into an erosion in the asset base of American agriculture. We believe the Wharton analysis of the Farm Journal financial data of 1985, provided by the Corn Growers, justifies the use of Government funds to recapitalize the Farm Credit System.

That analysis verifies the signficance of agricultural credit to the Nation's financial stability. Our followup analysis of the Farm Costs and Returns Survey of the U.S. Department of Agriculture, released this spring, was so arranged as to allow a definitive dollar amount to be extrapolated for any credit assistance package.

Senator, America needs the Farm Credit System in capital letters. Still unresolved, however, are the questions of, one, how does the chapter 12 bankruptcy farmer deal with an uninsured lender in chapter 11 bankruptcy? Two, is agency status an implied or explicit guarantee of the U.S. Government?

Bankers, farmers, pension fund managers, et cetera, et cetera, are all interested in the financial integrity of agency bonds and are anxiously waiting for the answers to those two questions. Government assistance to the Farm Credit System has been oversimplified as being only an agricultural issue. Those holders of agency bonds have yet to lose a dime. That too is part of the issue.

The pace of progress to restore health to America's agricultural credit system is totally dependent upon final legislation sent to the President. We believe the Federal Government has a moral, legal, and financial responsibility to deal with the present situation in a forthright and expeditious manner. At the same time, we caution that the basics of the enabling legislation have stood since 1933, and it is our desire that the new legislation would stand for the next half century.

The final bill, then, should provide a means for the Farm Credit System to consistently deliver credit at competitive rates without disrupting borrower income. Farmers, after all, have already paid the bill once.

Thank you, Senator, for your time.

Senator GRASSLEY. Thank you, Derryl. Now to Jim.

STATEMENT OF JIM MULLINS, IOWA CATTLEMEN'S ASSOCIATION

Mr. MULLINS. Thank you, Senator. It's a real pleasure to testify on behalf of the Iowa Cattlemen's Association again. Good to see you. I'll whip through this very quickly and just hit some of the high points of what we do or don't disagree with on some of the legislation being considered.

First of all, the cattle industry is a very capital intensive industry. It is an industry, therefore, that a reliable and competitive lender is extremely important to our industry; so, therefore, we appreciate the opportunity to have some input.

The goal of the Iowa Cattlemen's Association, who does join in with the Agricultural Coalition on their input, is to have a viable source of credit that the member borrowers of the system can utilize and are helped through any legislation that might be passed.

Some of the points that have been considered in that legislation: First, stock. We think it's imperative that the stock be safeguarded for those institutions that were liquidated in the Omaha and Spokane district, if for no other reason than confidence in those borrowers that are still there and will be in the future.

In the future, when you look at the way that the system may be capitalized, that stock should be considered at risk and everyone should understand that that stock is at risk. That has not been the way of the past. That's why we feel in the short term it should be safeguarded.

Restructuring of loans. I think we feel that any restructuring of the loans should be done at the local level. Those guidelines that are put together by any legislation of Congress should be very general and look at what the concept of what they should attempt to do.

It's very hard to restructure a loan from Washington, DC, or even from Omaha when you have the variations that there are within one State and when you look across State lines. So those things should be done in very general concepts in the legislation.

Borrower rights, we support that part of legislation. We feel that the borrower rights should establish a framework with which borrowers and lenders can work together, that there is a feeling of trust and support, which, Senator, you referred to earlier that years ago was very strong and a part of the Farm Credit System.

I think we have an opportunity here to do that, that we can get back to that again. However, we also need to realize that those borrower rights need to be those kinds of things that are not punitive to either the borrower or to the lender or we have lost that opportunity for trust between both the borrower and the lender in the beginning if it does not work plus-plus on both sides.

The insurance fund, joint and several liability that many people in the legislation have looked at, we think it's a plus-plus if it's put together somewhat like the Stenholm particular amendment.

A lot of people think an insurance fund would give a much quicker liquidity. We support that. However, there are some real advantages to having it backed up with joint and several liability. I won't go into that further because anything further I'd say would not be so much the Cattlemen's as my own opinion, so I'll stop on that.

The secondary market, the Iowa Cattlemen's does support the secondary market as the Coalition does. However, one very basic point about the secondary market is that it should be established so that it is the same for all lenders, whether they be commercial lenders, whether they be farm credit—through the Farm Credit System. Those regulations and rules should be the same for all lenders so that all borrowers have the same kind of opportunity to use that market.

Second of all, in referring to the secondary market, we need to understand and realize right up front that any secondary market will not help distressed borrowers. It will provide, in the long term, more outlets, retail outlets, for farm real estate and hopefully it would also provide for more competitive interest rates but would not be something that new lenders starting out would help the distressed borrower.

System reorganization. We have a tremendous opportunity here, Senator, to reorganize a system that has been in place for 50 years that desperately needs reorganization. Whether the—whether what Charles Stenholm put together in his particular kind of legislation is right or not, we don't have a specific position on that. However, where there is an opportunity for tremendous savings are through restructuring at the district level, and also within the Farm Credit Administration level like the PCA's and land banks. I'd have more comments on that from another viewpoint, if you want. If you happen to ask me any questions on that, I'd be happy to respond.

Supporting mediation. Iowa Cattlemen's Association feels that mediation has been a very plus. You have heard much legislation today that referred to that. We would also support legislation for mediation nationwide, but also along the lines that were brought up I think a couple of panels ago, that perhaps that mediation rule should be on a State-by-State basis.

It's a little hard to say that this is the mediation process that we need for the Nation when the differences from State to State are so—so different. However, it should have national support and national share funding so that States can do that.

I think I'll stop with that, and thank you, Senator.

Senator GRASSLEY. Thank you, Jim. Now Don for the Pork Producers.

STATEMENT OF DON GINGERICH, NATIONAL DIRECTOR AND PAST PRESIDENT, IOWA PORK PRODUCERS ASSOCIATION

Mr. GINGERICH. Senator, I'm Don Gingerich representing Iowa Pork Producers and National Pork Producers again. And first of all, I want you to know that this is very important to us as produc-

ers and this has been a mandate from our producers, that because of the devastating effects that it would have if the Farm Credit System did fail in our industry, that this is something that must be corrected.

And so we've pretty well run the routes and visited about everyone we could, including the Farm Credit board. We visited with all the board members. We visited with the Capital Credit Corporation, Hugh Macklin and with the district office, with Jim Kirk, and many Congressmen and Senators, so this is very important to us.

Some of the things that we think are essential is that whatever we do do, that it saves farmers rather than save the system. It is the—we strongly encourage that whatever we do makes ample provisions to restructure loans.

The system has been good to us, but it has also failed in several ways recently. I think some of those problems are that interest became too high, and also that because stock became—or people started considering stock to be at risk, many of the good and quality borrowers have left the system and so it's going to take some help from the U.S. Congress to rectify and to get us back on good, solid footing again. I think if we do, we will again start to attract quality borrowers and the system again will be saved.

A few of the things that we are concerned about are in regard to local control, the fact that some of the boards have required signed resignation statements on file whenever a board member is elected, and we think this does not allow them to do as effective as they should be. Something that is real important and a main ingredient that has been overlooked in past legislation is the restructuring. It must be required that—in no uncertain terms that an economic incentive be clearly stated language on restructuring versus foreclosure and that this has to be in economic terms, sending a direct message to system administrators on how loans would be handled.

One of the things that I would like to do on my short time here is to make comparison on current legislative proposals that we have analyzed. H.R. 3030 passed by the House committee known as the Stenholm proposal, Senate S. 1486 and S. 1665, realizing the Senate Ag Committee has been working on a bill for several months which we will simply refer to as the draft.

While we do not endorse H.R. 3030 completely, it is an extremely creative approach to the problem. We praise Congressman Stenholm in his approach. This bill does address many of the onging problems of the Farm Credit System. Not knowing the markup document the Senate will use, we will make our comments in relation to H.R. 3030. We emphasize that this bill is far from perfect.

We feel the most important part of the entire farm credit package is the restructuring provision. The language should be clear and definite with the use of shalls and not mays. In this regard, H.R. 3030, along with other proposals, use various approaches, but, in our opinion, accomplish the same thing.

In regard to the borrower's stock, we feel that there is a couple main points there. One is that the farmer-held stock should be held for a period of time to stop today's borrower flight from the system and it should be guaranteed for that period.

We have no objection, however, to—at some point in time to have at least a portion of the stock being at risk becuuse we realize

that the definition of stock is that it is at risk. And when we were talking with Charles Snethness of the Treasury, he emphasized the fact that if we wanted to own our company, we also have to take some risks, and I think that's a valid point. But to attract good borrowers back, I think that these stocks should be guaranteed for a period of time.

On capitalization, we have reviewed the various proposals and find any of the provisions acceptable. We still feel strongly, because of the current attitude of producers toward the system, some sort of a guaranteed par value of the B stock is required.

We also feel stock being at risk in the future will greatly benefit the system in that local control producers will benefit from taking part in making sure their institution is prudently managed and will monitor all management activities.

Federal assistance with the Farm Credit System will be a fact of life if the system is to survive. The system will not be able to survive without some temporary help and cannot wait long for this help to arrive. Congress up until now has attempted to fix the system and not really solve the problem.

We believe the language in H.R. 3030 is the best and that it will be straight dollars. We definitely disagree with S. 1486 in that that is borrowing money from several other different projects.

We feel the establishment of a secondary market for ag capitalization is long overdue. It may only have minor effects on interest rates but should allow greater amounts of capital to flow into the industry, and particularly to smaller producers who need the capital. We feel S. 1486 is the best proposal for secondary markets. H.R. 3030 has some creative approaches also.

We think that the valuation should be based on production agriculture, production agriculture based over a period of 5 years and average of 5 years, and also that only 85 percent be allowed to be loaned on any farm loan.

We support and prefer the elimination of the Farm Credit System or Farm Systems Capital Credit Corporation. It has provided—it has proved ineffective in restructuring loans and has not provided any benefit to farmer borrowers.

If there is any entity created with similar functions to the Capital Corporation, we would strongly object to it having funding and decisionmaking responsibility on loan restructuring. We wish to minimize the power and authority of any entity which would take on or replace the Capital Corp.

About joint and several liability and insurance fund, we support S. 1486 regarding the joint and several liability. We think that does that one best. We think that some type of insurance program such that would be similar—would be effective such as FDIC would greatly be an asset to the system.

We feel system restructuring will be required to enhance local control. We support the right of first refusal by the first owner to purchase or lease for the same amount under the same terms and conditions as the higher bidder regarding acquired property. We like the language in S. 1665 here.

We oppose H.R. 3030 authorizing the Secretary of Agriculture to transfer for conservation purposes, without charge, current farm property inventories to any Federal or State agency. This property

should be dispersed or released to the farmer and, if he desires, then he puts land in the program.

Senator GRASSLEY. Don, I think I'm going to have to interrupt you.

Mr. GINGERICH. That's fine. I'm pretty well done there anyway.

Senator GRASSLEY. Randy, your testimony indicated that Farm Bureau may be reluctant to support a consolidation of Farm Credit System banks. Am I correct to understand that you oppose the House proposal to merge the 37 banks into just 6?

Mr. BEICHLEY. No, Senator Grassley, we do not necessarily oppose the House proposal to merge the 37 banks into just 6. However, we are concerned about requiring a massive restructuring of the system on such a short timetable. It may be very difficult for the system to get its financial house in order while at the same time undergoing such a radical restructuring of the system.

It might be better to allow the system to undergo this restructuring over a 2 to 3 year period. We also believe the member borrowers of the system should have some voice regarding the mergers.

Senator GRASSLEY. I appreciate your support for a secondary market. As you know, I have endorsed the proposal and have cosponsored three bills which call for the creation of a secondary market. There are several questions, however, that I have concerning the application of a secondary market.

First, should secondary market loans only be available for "bona fide" farmers, those investors who actually operate the land themselves?

Second, should secondary market loans also be available for agricultural production facilities, like livestock equipment and buildings, or just for agricultural land?

Mr. BEICHLEY. We have no particular concern regarding the availability of secondary market loans to people who may not actually operate farming operations themselves, provided these individuals do not receive any special treatment or incentives that would not be available to family farmers.

We believe that secondary market loans should be available for agricultural production facilities as well as agricultural land. This will help to diversify agricultural operations which we believe is helpful for agriculture.

This diversification will provide ways to add value to the raw products—corn, soybeans—produced in Iowa.

Senator GRASSLEY. The right of first refusal is an issue which I support, and I believe that your organization does too. One of the main reasons I support this concept is that many times the original owner offers to purchase the land for a price that is higher than the price for which the land was sold to a third party.

However, a hurdle in adopting "right of first refusal" in Congress is that many members of Congress fear that borrowers might purposefully default on their loans in order to trigger a chain of events that would result in reducing the amount of principle on the loan.

How should we respond to these concerns?

Mr. BEICHLEY. The "right of first refusal" concept may be helpful to some farmers who have had to deal with lenders who have been unwilling to negotiate and restructure existing loan agreements. In

some cases lenders have not restructured a loan for an existing borrower even though it would have been cheaper to do that than to foreclose and to sell the land at a lower price to a new buyer.

We do not believe, however, that any "borrower rights" such as the "right of first refusal" should be so broad as to provide an incentive for borrowers to intentionally default on their loans. And we believe there are very few farmers who would consider such intentional action.

You and other Members of Congress may want to fashion some type of income or asset test which should be met by anyone attempting to use some of the borrower rights provisions included in the House bill.

Senator GRASSLEY. Mr. Gingerich, to what extent does your State organization agree with your national organization concerning the Agricultural Producer and Farm Credit System Borrower Act of 1987, also known as S. 1486?

Mr. GINGERICH. The Iowa Pork Producers Association has no disagreement with the National Pork Producers Council on its current stances regarding the Farm Credit System Borrower Act. In fact, we have further clarified our position at the State level, then at the national level in regards to the components of the Farm Credit System.

While we fully endorse certain sections of S. 1486, there are also other sections that we definitely do not support.

Senator GRASSLEY. Would the State organization seek modifications to the proposal by your national organization?

Mr. GINGERICH. The Iowa Pork Producers Association would definitely seek modifications to S. 1486 through our national organization. We have specifically outlined our preferences of the various proposals in the testimony today.

Senator GRASSLEY. Please make some general comments about borrower stock.

Mr. GINGERICH. We have no problem with borrowers' stock eventually being at risk and we feel that is prudent that stock should be at risk if it is to be defined as stock. However, in order to make that transition from the current point in time to stock at risk, we feel that those people that are currently in the system need to be guaranteed par value as this was not at-risk stock originally intended or implied.

Senator GRASSLEY. How will farmers directly benefit from a congressional bailout of the Farm Credit System?

Mr. GINGERICH. We think a healthy Farm Credit System will not only increase competition in the agriculture loan sector, but, most importantly, will assist the addressing of additional capital needs in agriculture if small and medium size producers are continued to be a part of the agricultural landscape.

We feel that it is quite desirable that a well-managed Farm Credit System owned by the borrowers of that system will be to the benefit of everyone in the agriculture community. It is essential that future plans for Farm Credit System allow for member input in control of how their local associations are managed.

Senator GRASSLEY. Should the Farm Credit System be required to fully deplete the loan loss reserve before going to the U.S. Treasury for a bailout?

Mr. GINGERICH. We really feel that joint and several liability is a moot point if there is a large enough insurance fund to carry this system over the rough points. It would appear that the legal haranguing by system banks will not allow for a full depletion of the loan loss reserve and we feel that it is most prudent to address this by turning the Farm Credit System around.

Senator GRASSLEY. Do you feel the differential interest rate structure has achieved its stated purpose, which was to reduce borrower flight?

Mr. GINGERICH. Differential interest rates have definitely encouraged better producers to stay with the Farm Credit System, but, unfortunately, the producers that need the most help are receiving the least help. In our opinion, the first problem here is the purchase of bonds at too high of rates for too long of period of time, which put many producers at such a high interest rate that their opportunity for survival is quite limited without restructuring.

Senator GRASSLEY. Ben, do you support the legislative package endorsed by your national organization?

Mr. KERN. Yes, we do.

Senator GRASSLEY. Why should we bail out the Farm Credit System? How will farmers directly benefit?

Mr. KERN. The Farm Credit System currently holds a significant portion of the total ag debt. The rural banking system has been strained by the farm crisis and is not aggressively seeking new loans except for high-quality loans backed by land.

The failure of the Farm Credit System would force the remaining borrowers to seek financing elsewhere. We have all witnessed the trauma of borrowers whose bank has failed. The new owners would take only the very best loans and leave the rest.

The scenario would be the same, only on a much larger scale. This could lead to more assets being put on the market and lowering of their values, thereby impacting all borrowers.

Senator GRASSLEY. Are the services of Farm Credit System unique and essential and irreplaceable by other credit sources?

Mr. KERN. The Farm Credit System is limited to lending to agriculture and therefore cannot abandon its farm borrowers. One of our board members reports that in his county the banks have only 15 percent of their deposits loaned out in the community.

In this county farmers are going into Missouri to find a bank that is seeking ag loans.

Senator GRASSLEY. Should we utilize the loan loss reserves before going to the Treasury for a bailout?

Mr. KERN. We have no problem with that so long as the borrower stock is not used. I would also like to point out that the loan loss reserves are made up from past income and current interest rate spread.

We cannot expect the system to increase or even maintain its loan loss reserves if that means having interest rates higher than other ag lenders.

Ms. MERCHANT. That Iowa Farm Unity Coalition feels that the borrower stock should be guaranteed at par value to instill faith in the Farm Credit System. Also, frozen B stock should be redeemed at par value.

The Farm Credit System needs to help the farmers in trouble and retain the farmers who aren't. Farmers will benefit from a Government bailout of the Farm Credit System only if the system is restuctured to help itself and also the farmer borrower.

The bondholders of the Farm Credit System must agree to adding a recall provision so bonds can be reissued at lower interest rates. The bondholders must asume their responsibility to the Credit System.

The interest for debt write-off and restructuring should be 5 percent for 5 years. Loss of the good loans came about mainly because the borrowers could get lower interest rates elsewhere. Interest rates have to be competitive.

I do not feel the Farm Credit System should deplete the loan loss reserve before a Government bailout. They need to use some of it, but not to deplete the reserve.

Senator GRASSLEY. I'm just going to simply thank each of you for your participation and once again thank the 4-H for the use of their building. I hope we have not run too long so that the next program will start late.

I want to say, in closing, that the four panels have been very helpful to us, primarily on analysis of the legislation coming up, but also on the status of the system compared to it's former status as established by the last two hearings I chaired. I guess some satisfaction has been expressed, even from critics, of some improved conditions in farmer/system relationships. I very much appreciate that.

I also sense an understanding that Congress must do something to help the system, and that supports the testimony which has been received in Washington.

We'll take this information and it will be very valuable over the next 6 weeks as we consider, both in the House and Senate, the legislation before the Congress. We must have reliable farm financing just like we must have reliable seed, fertilizer, pesticide, and machinery. It's necessary for all the other things we need in agriculture.

And so from that standpoint, the Farm Credit System deserves a great deal of our attention. It's received it from all of you who have been so cooperative today and so patient while we received the testimony.

I will adjourn the meeting and thank everybody for their kind participation, as well as those who observed for their attention. Thank you very much.

[Whereupon, at 4:50 p.m., the hearing was adjourned.]

APPENDIX

ADDITIONAL STATEMENTS

STATEMENT SUBMITTED BY MIDDLE AMERICA NETWORK, RANDY RIEDIGER, LYLE SCHEELHAASE, AND MARIE WHITEING

The Farm Credit System is at a crucial milestone in its history. It can become a viable working model for rural recovery or it can continue to be a deterrent. We wish to address four important areas which we believe have direct implications for the recovery of the Farm Credit System and subsequently for rural America.

MEDIATION

It is our experience that farmers and lenders alike, who must go through the State mediation process, are ill prepared. The State of Iowa law provides for preparation, but funding for such preparation is not provided. The chances for negotiated settlement are greater when all parties are well prepared. All parties must know that, as Iowa law defines it, mediation is not necessarily solution. Once around the table is not enough. A philosophical change in attitude is necessary before the Farm Credit System or their borrowers will sense mediation "success."

FARM CREDIT SYSTEM CAPITAL CORPORATION

While at its inception, the Capital Corporation was intended to be the entity within the system, to address the needs of the highest risk, nonperforming debt borrowers, it has been our experience, in the Sioux City area, that the Capital Corporation has become a "liquidator of debt." We have not experienced any attempt by them to restructure debt, although they indicate significant strides. It is only reasonable that this would be their approach, as they are a separate entity with no vested interest in the borrower. For instance, they have not processed the debt through the years and, in a sense, they have not "walked with" the borrower through the troubled times.

GENERAL FARM CREDIT

It is necessary for rural recovery that the Congress of the United States develop a comprehensive farm credit plan. No amount of dollars pumped into a community for revitalization will "turn over" enough to compensate for the agricultural debt/interest drain. So, an integrated comprehensive plan is necessary. We believe that it will be most difficult to develop a fair, just plan and, therefore, the task of the Congress will be to develop a plan that will address general borrower needs, and will be least harmful to existing systems.

ADMINISTRATIVE PRACTICES OF THE FARM CREDIT SYSTEM

First, Congress must insure that one-third of the dollars appropriated for the support of the Farm Credit System must be used for restructuring of borrower debt. If the total appropriation is used to save the system and not to stop the debt drain, where will the system be in 2-3 years, and how wisely will the Congress have used taxpayers' money if the system eventually fails?

Second, loan repayment to the system must be coupled with the legitimate productivity capacity of the borrower and a fair return on the investment must be realized by the system.

We apreciate the opportunity to submit this written testimony, and further, we appreciate the efforts by Senator Grassley to address this overwhelming problem.

STATEMENT OF DONALD BURT, MARSHALLTOWN, IA

My wife, Kathryn, and I farm north of Marshalltown, in a family corporation with my parents, Richard and Bertha Burt. Two years ago our son Allen graduated from Iowa State University and came home to help in our farming operation by being in charge of raising about 3,500 hogs per year farrow-to-finish.

We also feed some cattle and have about 500 acres corn and 500 acres beans. Our other son, Darrel, is a student at ISU and plans to come back and farm also. I have served on the Marshalltown Federal Land Bank board for the past year.

I am writing to share with you my experiences with, and observations about, the Federal Land Bank/Farm Credit System, and also the reasons I think the Farm Credit System needs financial assistance.

My history with the Federal land bank goes back to the late sixties. We have a good relationship over the years and we borrowed additional money as we purchased more land. This included some high-priced land in the early eighties. When the agriculture economic downturn began, we were caught with a decreasing net worth and land that was mortgaged for more than it could be sold for. We were worried about our future.

Two years ago I was upset with the Farm Credit System. At that time it was trying to fix the system with higher interest rates to offset losses, but in effect caused more delinquencies, and also the lower-risk borrowers left the system.

I wrote letters to each of the Omaha district board members because I felt they were making a horrendous mistake. I was unable to leave the system because our mortgage was greater than the value, although eventually I was able to get one of our four loans transferred to our local bank at a much lower interest rate. I was also worried about the possible loss of stock and that the system might not survive if it continued the way it was headed.

Shortly after that low point, new leadership started changing these negative policies. Farm Credit has lowered interest rates during the last year. This, coupled with large Government farm program payments and higher livestock prices, has allowed many farmers to improve their financial position.

From my personal observation, the policy with the Farm Credit System now is to restructure and negotiate with any farmer who has a chance to survive and will negotiate in good faith. I do not think we want or can afford a system that saves everyone. Every business has some who do not succeed for various reasons. The lender needs some authority and flexibility to keep his position secure.

The Farm Credit System has probably made some mistakes in the way some farmers were handled. However, in some cases, the farmer has not been fair in what he has done or what he has told.

I do think the Farm Credit System needs help at this time for several reasons:

First. To protect the borrowers' stock.

Second. To avoid putting any more unfair burden on borrowers still in the system by too high interest rates.

Third. To keep the borrowers it still has and attract some new ones.

Fourth. To be able to continue to restructure viable loans.

Fifth. To keep a source of long-term credit available for farmers, which they need.

I do not think the Farm Credit System should be required to unconditionally restructure all loans. It would be good economic business.

Thank you for the opportunity to present this statement.

STATEMENT OF DARRYL MCLAREN

Currently being discussed is the concept of a Federal program to make matching funds available to States that have in place or that will put into place farmer/creditor mediation programs. We find this to be a sound concept, particularly since we see the opportunity for the Federal Government to enhance programs that have proven effective in getting farm borrowers to communicate with their lenders.

As a result, mediation programs can help the farm and lending communities resolve many problems before they enter the court system. This has become attractive to many parties with the presence of the chapter 12 bankruptcy provisions now available to handle the unique nature of agriculture. We applaud Congress, and particularly you, Senator Grassley, in taking the lead with chapter 12.

Although the provisions of chapter 12 were sorely needed, we see mediation serving many functions. Foremost is its ability to serve as a buffer for the court system. By utilizing the communication format made available through mediation, farmers and creditors are given the opportunity to resolve their conflict outside of the courts, thus conserving the resources of the bankruptcy courts for the cases that

cannot be resolved in any other fashion. This phenomenon is already occurring in Iowa, which has a mediation program in effect.

From January 1, 1987, through June 30, 1987, there were 270 chapter 12 bankruptcies filed in Iowa. Compare these filings to the State of Nebraska for the same time period, which had 387, and is a State that does not have a mediation program.

Although economic conditions may vary from State to State, we feel that much of the difference between the number of filings can be attributed to mediation as an option available to both parties to resolve a dispute before the producer seeks the protection of chapter 12.

Beyond the difference in chapter 12 filings, during the first year of the Iowa Farmer/Creditor Mediation Program, 37 percent of the mediation requests were resolved in some fashion. Mediation has resolved over 2,100 cases in Iowa, many of which may have progressed to bankruptcy.

Quite possibly many of the 270 Iowa chapter 12 filings may have been avoided if those farmers who failed to participate with the program would have taken part in mediation. Of the number of farmers who received notices for mediation, approximately 47 percent failed to take advantage. A Federal program that enhances farmer/creditor mediation funding can certainly be put to use allaying the apprehension of farmers to sit down and negotiate with their creditors.

In addition to bolstering existing programs, a Federal mediation program will help encourage other States to develop similar programming. Yet, we would suggest that States be given a reasonable amount of flexibility structuring their mediation programs.

Currently, mediators in Minnesota have the right to determine whether or not the parties are negotiating in good faith, but in Iowa the mediators do not have that authority. Structural differences in programs should be left to the program framers within the given State. We see it as unwise, and possibly stifling for Congress to mandate nuances of mediation programs.

State governments need to be involved in development of mediation programs and should be relied upon to engineer specific details that best serve their people's needs. The Federal Government should be concerned with minimum compliance of the programs receiving assistance and not with administering or designing programs.

Congress can also help farmers through a Federal program in one other method. This would be by encouraging, if not insisting, that the Farmers Home Administration participate in mediation programs. It is our understanding that the FmHA has participated in a very limited fashion in mediations as a second lienholder and has recently stated that it will not take part in future mediation programming.

We realize that legal questions pertaining to the posture of the FmHA in regard to State law may not require the agency to mediate. Yet the opportunity for the FmHA to voluntarily participate does exist, and it would prove beneficial for both the agency and the farmer in terms of time savings and problem solving abilities. Thank you for the opportunity to put forth our comments concerning mediation.

STATEMENT OF MAURICE RUSSELL ON BEHALF OF FEDERAL LAND BANK ASSOCIATION, PRODUCTION CREDIT ASSOCIATION, NEWTON, IA

At your hearing on August 26, 1987, you solicited additional comments to the subcommittee, and that is the purpose of my comments.

I am the regional president of the Newton Farm Credit Services region which provides PCA and FLBA credit services in a 20-county area in south central Iowa. I have 17 years of management and credit experience in loaning money to farmers. I was particularly interested in your subcommittee hearing because the John Nichols and Jim White loans are in my portfolio.

First of all, these individuals are not representatives of the financially troubled farmers in rural America. We are restructuring loans, we are compassionate with farmers, but we are not giving money away, and we are not violating sound business lending practices.

In my 20-county area during 1987, we have restructured 239 loans which had a total legal liability of $57,168,281. Debt forgiven on these loans totaled $22,815,930. We approved restructuring these loans because it was to our economic advantage to do that rather than foreclose. However, those loans we have restructured had the following characteristics:

First. I was to the Farm Credit System's economic advantage and was cheaper than foreclosure.

Second. The farmer showed good cooperation.

Third. There was a reasonable chance that the farming operation will have long-term viability.

Fourth. The borrower was willing to pledge equity: in other assets, thereby showing confidence in his/her operation.

Fifth. The borrower was willing to provide accurate and adequate records showing at least satisfactory farm and financial management.

In cases where those characteristics are absent and we would be required to restructure, we would be throwing away money—your money, my money, and the U.S. Government's money if we do receive financial assistance. When I voted for you, I placed utmost confidence in your ability—which I still have—to assure the Federal Government's funds are spent frugally and judiciously.

I must continue to restructure loans as we have, or I will not be running this Farm Credit Services region with the same prudence that I would hope you are assuring my funds are spent. That's it. It's economic, it's basic, and it's good business.

It is my hope that the legislation approved does not mandate restructuring, but requires it when it's to the Farm Credit System's advantage. Otherwise, the tab to the Federal Government could easily be twice the proposed $6 billion.

Thank you for the opportunity to provide my comments and input. Feel free to call on me for additional information, if needed.

STATEMENT OF WILLIAM R. WENZEL, GOOSE LAKE, IA

I am very opposed to the bailout of the PCA.

First. Any lending organization that provides a car and expense account for each lending officer to wine and dine customers and go on tours until they are broke should stand on their own.

Second. They raised all customers I talked to interest rates an average of 49 percent during the loan year.

Third. Money brought in was applied to the principal with nothing toward interest so that they classified them as troubled loans. Then whatever the interest was, was put down as a loss to cover up what was already spent by the golden goose PCA.

In 1983 I was talked into joining PCA by a "friend." I had 190 acres of land, 60 milk cows, 90 ewes and lambs, and 30 sows and pigs. In 1985 I was told to sell off some cows, cattle, hogs, and sell all of my corn and beans so I could make my farm payment and PCA payment.

I took the money and put it in my PCA checking account. Instead of letting me make my interest payment and farm payment, my account was frozen on January 6, 1986. I was left without any money to pay bills, farm payments or living expenses. As a result, I lost my farm. On May 19, 1987, I was told by PCA I was in default and would be closed out altogether if I didn't make such big payments each month that I wouldn't service any debt by the PCA debt.

I was forced into bankruptcy. This robbing Peter to pay Paul theory cannot continue until the last PCA customer is bankrupt.

Chapter 12 Bankruptcy by William R. Wenzel.

First. They are so expensive, most farmers can't afford them. Mine costs $5,200.

Second. Mine was filed June 1, 1987, with all paper work in place. I was approved the last part of June for chapter 12 because there were no objections. PCA, being the secured creditor, is trying to still clean me altogether.

I am renting the farm I was buying. USDA programs paid the rent and now they want the crops. So I am waiting to see if I am going to keep farming or lose everything I ever had plus the $5,200 lawyer fees in a system that is too drawn out and time consuming.

All proceeds from livestock and grain sold is to be put in a separate account. This doesn't give a person a chance to cash flow until the court decides on the ownership of the crops. It only forces a person to take complete liquidation under chapter 7.

STATEMENT OF FREDERICK W. BARTELS, BRYANT, IA

To whom it may concern:

My first visit with a PCA loan officer was here at the farm. I told him then I was satisfied with where I was at the bank and could see no need for a change. The second time he came, I told him again that I was not interested in changing to them and told him also I didn't want to see him again.

About 3 weeks later he came again and talked his way in the house to explain their program to me so I would understand it better. At that time I was real unsure

of this guy, but could save 2½ percent interest on what I had borrowed so after a few days of thinking about it, decided to go with them—the PCA, that is.

But I said to him sitting right here in my house—now, you have to remember if I decide to go with PCA, you have to be ready to go along with me in bad times as well as the good times. He looked at the balance sheet and replied, "You sure don't have to worry about that. There sure won't be a problem, we will take good care of you."

I went to take some custom baling checks into the PCA. I had 12 or 13 checks to deposit and the office girl didn't know what to do with that many checks so she called my loan officer out and he told her to just put the amounts anywhere on the slips instead of using four slips or five slips because there are only room for four checks on a slip.

What a mess when she got done, but then when I was done with that, I was called in the office to be told, "You don't need to bring in those baling checks. We aren't interested in chicken feed." $2,700 isn't chicken feed in my book.

Sure was a different way of doing business. Also, at that time I didn't put the explanation or code on one draft I had written, so he didn't know what it was for. About a month later, I took a cattle check in and deposited it. Next day I received a call from the office girl as to the weight and price of the cattle. I told her it was none of PCA's business and was getting very tired of loan officers bird dogging me.

I received a call that night and was chewed out that I couldn't talk to the office help that way, and needed to know exact weights and price. I was not told this was a requirement of theirs. Really none of the loan officer's business. He had number of head and the original check from the packer.

I was called into the office for an appointment when I was busy baling—just to be chewed out again about how he needed the weights and exact price per pound. Then one 99 degree day, he drives in with no appointment and out of the blue and says, "I want to count the cattle through a gate."

Both yards are full of cattle and no place to run them through, plus cattle were standing with tongue hanging out from the heat, and he insisted we chase them around to count them. I told him he had better stuff himself back into that air-conditioned automobile before I did it for him. Sure couldn't stir cattle all up in the heat. Besides, I had no room to put them in another yard.

When I was below my loan limit and bought more cows with calves at side, I was asked, "Why did I do that when cows aren't making money anyway right now?" Soon afterward I was sent to the FHA to see if I would qualify for a low-interest guaranteed Government loan. The fellow there looked over my balance sheet and said—after a long silence—"You may as well get rid of those cows before we will talk to you."

One year later I was sent to FHA again for a guaranteed loan. I was met with this "As long as you own those cows, I don't need to talk to you." No other reason was given why I would not qualify for a lower interest loan.

I wanted to send 36 old and open cows to market. At this time the market was where cull cows could have been replaced dollar-for-dollar with good cows. I was told I couldn't do that. The end results—15 cows went to market, I held the check in the desk drawer for 1 year and 8 months. I knew I couldn't use it anyway.

Nine calves and rest of cows died—my loss. Then I was told that this was not a management decision but a financial one on PCA's part. A loss of 26 calves not being born and the 21 dead cows was a severe economic impact. Also, the fall of 1983 my corn crop did 27 to 40 bushel to the acre. A small drought area was right here.

Then I was called on the carpet—so to speak—as to just why I didn't harvest any more corn than that. I told him I didn't get rain. His reply, "How come you didn't, your neighbor did?" I stood right out in my yard and saw the neighbor get rain for 20 minutes and I got a few drops. Besides, the neighbor that he was referring to lives 2 miles away.

April 1984, 120 head of 1,200-pound cattle in the yard with a short corn crop the fall before. I asked the loan officer to buy 1,000 bushels of corn so I could get rid of some cattle soon. His answer, "You're not going to buy any corn for those cattle." The cattle buyer said 2 weeks the first load should be ready, but with no corn it took 7 months longer for the first load to go.

It cost me more in interest than the corn would have cost, plus the roughage I fed that should have been saved for the cow herd. I lost $7,000 in just the lower market plus all the feed. This would have paid the interest. I said to him, "I sure wish you would let me manage my operation," and he told me matter of fact, "It was not a management decision but a financial decision on his part." Pay more interest, right?

Out of the first load of cattle, the check was $27,000. I asked for $200 for paint for the barn. I was told that all that money has to stay here because you are over your limit. With two loads still in the yard to be sold later, still no paint on the barn and the next two checks laid in a desk drawer because I could not trust them anymore to work with me.

Finally I took one cattle check the last day of the year and told my loan officer I would like to pay my bills, $22,700 worth. Sure was a heated discussion, and then he told me, "Who said we have to let you pay your bills? You have to pay your interest first."

I told him at my meeting with him at the end of the year—1985—when the cattle check was used to pay the bills, I asked him for the $22,700, he came back to me with $22,000 draft. That's when I told him he was "nothing but a damn weasel." Before I left that day, I questioned him if it would be possible to seal some corn to make the land payments and pay the taxes.

His reply: "I don't see a problem with that." So the middle of February I sealed corn and took the check out for him to sign. He said, "What makes you think you can do that?" I told him, "You did." He said, "You mean your're calling me a liar?" I said "If need be, I'm afraid so." He said, "I am not going to sign that check till you do." So I snatched the check off the desk and stuffed it in my pocket.

He told me I could never use it without his signature. I said, "Watch me" and left. Two weeks later I took the check back to the ASCS office and told them I couldn't use it. They later made the land payment of the 75 acres without my signature on a new loan. They wanted to protect their interest. I could pay higher interest than the sealed corn check.

I also was not in the habit of not paying my bills. In September we should have taken care of the interest with the first cattle check like I wanted to, but not now. He put that all on the principal and I protested then, but he insisted that was the way it should be done. Then the next thing I know, they are recalling my loan and it will have to be paid off or foreclosure is the next step. Sure was a turnaround in 18 months.

Now PCA needs more collateral. When I first listed my inventory, I didn't need it all—we had plenty, according to him—so then I took a more complete inventory out to him and he said, "We will take it, but we can't accept it. We will need to have a second mortgage on your land."

I was given his word when my loan got dowen to a certain figure, the second mortgage would be taken off. It was below that figure and they wouldn't release it. That is when I wouldn't taken any more checks out to them. I had a better debt to asset ratio than I did when we started. So finally at corn planting I was called in. The papers were all spread out on his desk as to signing the second mortgage to the 75 acres or pay the loan off or this is the last day you farm.

I was told I had to bring in my income tax statements for the last 3 years the next day. I said, "Isn't the tax returns between IRS and me? I don't think they are public information." The loan officer said, "We don't care about that. If you don't bring them in, we will call your loan. We have to look at your tax returns."

Then when they got the returns, they made copies of them for themselves. I really feel that this should have not been done either. He just took them out of the office and copied them for future office reference. I received a letter to come out to PCA for a friendly visit from a new loan officer—during corn harvest, no less. This was 5 or 6 months after I hired an attorney to help me with them. They didn't notify my attorney.

I went out to their office and was introduced to two new guys instead of one. They were ready to pluck my feathers. All of a sudden they say, "Let's fill out a new financial statement." When they finished, they wanted me to sign it.

I figured I had better study it over, and without a calculator and all the modern office equipment and two educated loan officers, I found a mistake. I handed it back across the desk and told them there was a mistake on the asset side. It took the two of them 15 minutes to find it.

After I finally told them it was where they figured the cow herd, they corrected it and handed it back for me to sign. My response: "You guys have made a bigger error on the other side. I will not sign this until I have a chance to check it all over." Then they called my attorney in—who just happened to be in the next room.

By rights, once an attorney is hired, he is to be notified of any meetings and correspondence, and he wasn't. He came in. The first thing he looked to see if I had signed the balance sheet. I call this a real infringement on my rights. Come out for a friendly visit, no demands will be made. Just to get to know you and talk things over. You know, after having one loan officer you can't trust, now try two.

Anyhow, it was set up during that meeting that they should come out and check my inventory, guess what—everything that was listed was here—then he wanted to look at the land. First he said I left too wide of grass hollows—I make hay off them. Then when he saw the rock quarry on the place, he said, "Maybe it should all be in pasture if the rock is that close" not 5 minutes after he made the first statement. Really, now.

My strip cropping and contour rows and 40-foot waterways were laid out by the Soil Conservation Committee. He told me maybe I would have made it if I wouldn't have left the grass hollows so wide. Now, being as I didn't pay any interest or pay any bigger bills in 1986, I got to pay taxes on my gross income instead of net income. All income, no expenses, pay my loan off in 3 years, no repairs, take all the income inventory, then see how you meet expenses.

We cashed in on life insurance to have something to live off of, then had to let our health insurance go because—that was not PCA's concern either. All income tied up for 2 years and no money to operate. By the way, "You can operate a tractor on $200 a year as to repairs," according to my loan officer. It wasn't their concern either if I planted corn or oats in 1986 or 1987, or even kept farming.

Really, the money we are using to pay for the attorney fees and the extra interest on all bills at 18 percent should be used to pay the bills when due. Sure does make a lot of creditors happy. I feel real bad that this has gone for 1 year and 8 months since we have gotten an attorney to work on it.

We have been threatened with foreclosure three times now, even though we have the collateral to cover the loan with them. I would like to go to another bank, but they are all running so scared with this farm crisis. Seems like we can never get any concrete figures to work with to go to another bank.

I feel the PCA or Farm Credit System doesn't need a Government bailout. The System needs to be run in an orderly banking business. They need honest working people who understand the farming needs, not people who come out and look for people with assets to drain off of just to cover their expensive office building and big salaries.

STATEMENT OF MARVIN E. PENDROY, MONROE, IA

I am a fourth generation farmer, born and raised on a farm in Jasper County, living in the same vicinity that my great-grandfather homesteaded. My wife and I have raised four sons, three now married and one just graduating from high school and we now have four grandchildren.

All of our sons have town jobs because of a lack of a future in agriculture. I have always been a full-time farmer, supplementing our income during difficult times in agriculture in various ways; such as, driving a truck, carpenter work, working for the ASCS office, and other businesses throughout our community.

We have been praised in the past for our abilities, accomplishments, and progress in our family farming operation, including the directors of our local bank and Federal Land Bank. After surviving the 1977 drought and complete crop loss, we continued farming with very little problem. Then the bottom dropped out of the livestock market in 1980, with inflated production cost and skyrocketing interest rates. We were deprived of a profit, which made it difficult to cover our commitments, but were encouraged to do so by our financial institutions.

In 1981, it was recommended by the bank that we refinance our operating loan. So by putting part of it in a long-term loan with Federal Land Bank at less interest, because at that time I had very little long-term debt on the land. My major debt was operating loans at the local bank, which were created by lack of profit in livestock—hogs-cattle—and grain—corn-soybeans. We managed to fulfill our part of the commitment until 1984, after suffering a drought, flood, and crop loss in 1983.

During this period was when the Farm Credit System developed the new cash flow standards, instead of the original assets, capital gains and past history records as guidelines for our credit needs. Agriculture cannot be based on case flow standards until there is a guaranteed price and profit in the marketplace for our products.

In January of 1984 I applied for a disaster loan—which I was eligible for and entitled to—for the loss of the 1983 crop due to the drought and flood. With enormous amount of resistance from the county director, working for FmHA, and with numerous appeals, I finally received my 7-year disaster loan in July of 1984.

In December 1984 I was told by my banker that I was a "poor credit risk, poor manager, unproductive, and also out of their loaning area." This was the same party that had praised my accomplishments and wanted my business the past 15

years. I was told to find credit elsewhere immediately, they no longer wanted my business and no longer would be my short-term lender. Due to the lack of profit and the ability for farmers to repay their debts, other credit was not available.

In early 1985, with the aid of several attorneys, I was advised by my bank that if I were to produce a full signed financial statement, they would negotiate and work with me to acquire a FmHA guaranteed loan to continue my credit needs.

After several weeks of reluctance to give a signed financial statement, I was advised by my attorney to do so for mediation purposes. Within 48 hours after doing so, I was served by the bank with a writ of replevin, acquiring all the items listed on the financial statement.

To quote my banker, I was told to "gather my most personal possessions, my family and get the hell on the road as they were taking over." Two days later, my FmHA disaster loan was accelerated, demanding full payment. Knowing I did not have the money, they attached all my grain.

So I was forced to sell all my grain in the amount of $24,000 to pay the $15,000 disaster loan in full. By doing so, it was paid within 6 months of the day it was granted, while they held the excess of $9,000 so I could not make my Federal Land Bank payment. After several attempts, the balance was finally released so I could make my overdue farm payment of January 1985.

With the bank continuing with the process of the writ of replevin, there were a number of hearings held in protest of the replevin because it is not written and is not a part of farm law and should not be admissible in court dealing with agriculture law.

The writ of replevin was granted by a judge who had been my personal attorney for a number of years prior to the hearings. When approached on this issue, he was asked to step down because of his personal involvement. He agreed to not rule, but within 48 hours ruled in favor of the bank due to pressure because of his former relationships with local bank attorneys.

With replevin granted and without notice to my attorney or myself, the bank manager sent trucks to pick up my livestock and machinery. I had no advance notice that the replevin had been granted or that they were coming. The only ones at home were my wife, daughter-in-law and two small grandchildren.

They loaded the machinery that was on the farmyard and all the hogs, which consisted of newborn pigs, sows, feeder pigs, market hogs and all breeding stock, combining all sizes in a number of trucks. The cattle and balance of machinery was at an adjoining farmstead, which I rent.

The banker threatened my wife with judgments and demanding whereabouts of balance of machinery and cattle. My wife telephoned our attorney. The attorney then asked to speak to the sheriff and bank manager, advising them to leave due to the fact of not proceding within the limits of the law. After 2 hours of harassment and cruel accusations, the sheriff requested the bank manager to leave the premises.

The following day we proceeded to file a chapter 11 for negotiaton and reorganization, to stop foreclosure and replevin actions. With continuance attempts to deprive me of my rights to negotiations by the bank and also lack of knowledge and experience of farm law by my attorney, I was forced to withdraw from the chapter 11 on January 1, 1986.

Federal Land Bank Association filed foreclosure proceedings in August of 1985, because of nonpayment of July 1, 1985, which I had asked for extension of time to make payment. Their reply was that they would accelerate the loan, even if I made the payment, because it was overmortgaged. The loan officer of Federal Land Bank suggested numerous times to forfeit the farm to them because it was my best option—never offering any forbearance policy.

With my bank's continuance efforts of liquidations and without the protection of a chapter 11, the bank continued with their procedure of the writ of replevin.

I was ordered to have the balance of my machinery and livestock of the farmyard on a given day and they would pick it up. Arriving at the farm that day, they proceeded to load the cattle on trucks and trailers, crowding and abusing them. Also attempting to take hogs, which I had purchased with money made from a nonfarm income to reestablish my hog operation—which they were not entitled to.

The remaining machinery was loaded in a very careless manner, damaging some of the equipment beyond repair. Everything was removed that was listed on my signed financial statement, never to be advised of its whereabouts, value or existence, again never abiding by the rules and regulations of the law. I was again denied my rights as an American farmer by the banking system, court system, and law enforcement.

At this time my attorney files lawsuits against my local bank and Federal Land Bank, trying to force them to abide by the rules and regulations of the law. Battling through endless hearings, deposition and harassment, while trial date approaching with the bank.

The bank became very eager to settle before the trial. I was advised by my attorney that I should settle because I could not force them to compensate for the damage, deterioration and destruction they had forced upon my family, my family farming operation and myself.

With the majority of my machinery taken, I was forced to give up my rented cropland. Without a line of credit and a minimum amount of livestock, I had no opportunity to regain or recapture for due compensation. So, therefore, I have won but have lost 40 years' productivity and establishment in agriculture.

The bank and our family farming operation would have been in a much better position today if the bank had been willing to negotiate and try to work things out based on circumstances and conditions of the times at hand, but their greed for profit and control of farm credit has dealt American agriculture a greater hardship than the Great Depression.

The same problems have occurred over the past 1½ years with Federal Land Bank. Reluctantly they have been forced to abide by part of the rules and regulations of the law. Mediation was held but their representation would not acknowledge or participate in a plan to renegotiation. Their terms were cash outright only.

Motion to produce records was filed 2 years ago, but they failed to do so as of yet. Many attempts have been made by their attorneys to have the lawsuit thrown out of court because I have exercised my rights as a citizen and an American farmer, with the filing of a chapter 11, mediation, protest, lawsuits, and the use of various attorneys.

I have also made many trips to Congress in Washington, DC, to try and relay the messages of the problems in agriculture in rural America that the local Farm Credit System will not acknowledge. In doing so, I have been identified as a poor credit risk, bad borrower, troublemaker, and an unwanted customer of the Farm Credit System.

The majority of Farm Credit System staff employees will not specify which branch of the Farm Credit System they are representing, such as FLBA, PCA, Capital Credit Corporation or other Federal agencies. In doing so, they are trying to manipulate their set guidelines that they are to follow, to benefit themselves.

It is a known fact that local judges have ruled in favor of the Farm Credit System in return of full payment of their personal Federal Land Bank loans. Many attorneys have also worked in favor of the Farm Credit System for their own personal gain of power and wealth. I feel their major concern is to build an empire and monopolizing of the Farm Credit System for their own personal wealth and power.

Their next intent is to drive farmers off their land and into the middle of the road—homeless and penniless, faced with deficiencies and judgments without ability and resources to repay within their lifetime.

If you are not aware of their project—1995—I urge you to become aware of it immediately. Due to the injustice that the Farm Credit System has forced upon its borrowers, complete devitalization of the Federal Credit System would be minimal punishment for the hardships, deterioration, suffering, harassment, and destruction of farmers, ranchers, laborers, small businesses, agriculture, and rural America.

Judicial and court systems have also contributed their share to the economical problems of rural America due to their lack of knowledge and concern with the conditions and problems at hand. I feel that they cannot rule with fair justice.

I urge you to use your abilities and power to its fullest capacity if there is to be a bailout of the Farm Credit System. It must be rebuilt from the bottom up, returning it to local control with a board of directors made up of farmers and borrowers of that district elected by membership votes, with equal opportunity for borrowers the same as stockholders and management, with special efforts on helping borrowers that have fell victim of the prior Farm Credit System.

It must be returned to a long-term low-interest credit. To be specific, it must be less than short-term credit to enable the recovery of American agriculture to its standard to insure that we all have the right to a fair profit.

This testimony is based on the recollections and records to the best of my knowledge. Thank you for the opportunity to testify to your committees. Your concern regarding Farm Credit System is greatly appreciated.

STATEMENT OF DAN SCHMITT, STATE SECRETARY OF THE AMERICAN AGRICULTURE MOVEMENT OF IOWA, MARSHALLTOWN, IA

Senator Grassley, I applaud your efforts to hear the voice of "We the People" on the farm credit bill. Allow me to preface my remarks with a small bit of historical economic facts. Even as the Federal Reserve bill was being written in 1913, the Nation was enjoying prosperity in the base period of 1910–14.

It was in that context that American Agriculture Movement of Iowa agrees with the original coauthor of the Federal Reserve bill, the Honorable Robert L. Owen, and his intent to implement into the bill that that entity would regulate the flow on money so that: First, the volume of money should be increased until price levels of raw materials have risen to the point where they cover the cost of production and leave an honest margin of profit to the producers of raw materials; second, until national income is sufficient to carry the legitimate private bond structure outstanding, plus, third, provide employment for those who want to work. It should be pointed out after that level has been reached, the flow of money can be increased only as actual physical production is increased.

Since those three qualifications failed to be implemented into the Federal Reserve bill, AAM and all the other farm organizations except Farm Bureau have, in varying degree, worked for par economics.

If we had been successful, the need for the Farm Credit System bailout would not now be necessary. We would not now be suffering from an immoral and insidious public and private debt of nearly $10 trillion. Incidentally, the Constitution of the United States "mandates" in article I, section 8, subsection 5 that "Congress has the power to create, regulate and issue money and that of foreign coin."

Since Congress has failed to do this, "We the People," yes, you, Senator Grassley, all the other Congressmen and all American citizens suffer the pain of bankrupt citizens; bankrupt Farm Credit System; and possibly, very possibly, bankrupt USA.

I say that because this country does not earn enough to meet its interest obligations. We have now become a debtor nation. The per capita cost per day of interest is now $9.

It's serious. But in our rush for conformity and congeniality, let us not give away the store—Farm Credit System. These facts are:

First. All individual borrowers of the Farm Credit System are the stockholders and owners of the associations where our loan was made.

Second. The associations within a district are the stockholder owners of the district banks.

Third. The Farm Credit System is composed of 37 district banks and they are privately owned public corporations.

Fourth. The 37 district banks are chartered by the Federal Government in the same manner as the national banks and Federal savings and loans.

Fifth. Only the stockholder owners should be allowed to mandate the abolition of our 37 district banks.

Sixth. Stockholder owners' problems with district banks were not because these are district banks, but because of the personnel in the banks, and the Farm Credit Act of 1971.

Seventh. The Farm Credit Act Congress passed in 1971 was flawed and this prevented the stockholder owners of the 37 district banks from having authority over its district banks.

Eighth. In passing the flawed 1971 Farm Credit Act, the Congress itself is the party who opened the door for the abuse which has plagued the system borrower owners.

Ninth. Congress should correct its 1971 error and allow each Farm Credit System district bank stockholder owners to elect its individual board of directors.

Tenth. Only the stockholder owners of each separate corporation should have a right to abolish its district banks or to elect its total board of directors.

The Stenholm amendment philosophy must be eliminated from this farm credit bill, to safeguard the rights of the stockholders—owners—of the Farm Credit System.

The second error in the proposed bill is the secondary market concept. While on the surface this secondary market sounds good, it will allow the big commercial banks to gradually choke and destroy the Farm Credit System.

I leave you with these "6" questions.

First. How can we allow legislation to dissolve private stockholder corporations without seeking approval of the stockholder owners?

Second. The Federal Land Bank Association, the Production Credit Association need district banks in order to survive. How can legislation call for the forced dissolution of district banks without stockholder approval—local control?

Third. How can legislation allow the merger of all district banks into a super bank?

Fourth. Why shouldn't stockholders have the right to organize district banks if they so choose?

Fifth. Shouldn't stockholders have the right to disapprove of a reorganization plan that they do not believe to be in their best interest?

Sixth. Why should the Farm Credit Bank be abolished without the vote of the member owners—stockholders?

Incidentally, Senator Grassley, it has been brought to my attention that the Findley amendment has been inserted into the 1985 bill which gives the power to the Secretary of Agriculture to lower the levels of price supports. Findley amendment.

We object. That power should not be granted to one individual. This should involve the conscience of Congress. They alone should make the decision. The buck stops there. Repeal the Findley amendment. The $2.6 billion budgetary saving on 88 deficiency payments meets goal on corn alone.

In conclusion, the American Agriculture Movement of Iowa urges all citizens to speak out for our God given rights. Wayne Cryst says it best, "The people of this country need to first get down on our knees and then up on our feet and fight for justice."

I cannot improve on that.

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